

LOCAL SELF-GOVERNMENT AND LOCAL FINANCE

IN
THE UNITED PROVINCES OF AGRA AND OUDH

by

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PREFACE

Local Self-Government in the United Provinces of Agra and Oudh is about a century old now, but no comprehensive book on its evolution or present organization has yet appeared. The reason for this is to be found partly in the amount of labour involved in piecing together such an account from the various laws, rules, orders, and regulations scattered through the pages of a large number of reports, manuals, gazettes and other publications of the government and the local bodies, but mainly, in the comparative neglect into which the subject has generally been held. There is little justification, however, for such a neglect. The functions of local bodies may be of a humdrum kind like cleansing, water-supply, and drainage, but without their satisfactory performance, civilised life would become impossible.

The present book is an attempt to supply this long-felt want. It has grown out of the author's lectures to the Local Self-Government Diploma class of the Allahabad University. It deals briefly with the history, and the present constitution, functions, and finance of the various types of local bodies existing in these provinces—municipalities, district boards, notified and town areas, and village panchayats. The treatment of the subject is from the political and administrative rather than the legal point of view. Many of the rules governing administrative details have, of necessity, been left out, and for these, the student of the subject must still refer to the various local manuals. The object of the book is only to explain the existing system in its broad outline so as to make it easy of comprehension. Care has, however, been taken to omit nothing of real importance. The major defects in the constitutional organization of the local bodies, and the various suggestions for their improvement have briefly been noticed in the concluding chapter, but the subject is a large and controversial one, and those interested in it will find it treated at some length in the authors 'Reform of Local-Government in India.'

No one can be more conscious of the shortcomings of a work like this than the author himself, but his excuse in putting it forward before the public is that a beginning, however imperfect it may be, had to be made, by some one to render possible a more thorough and complete study of the subject by others. Any suggestions for improvement will be gratefully received.

The University of Allahabad.

15th July, 1946.

M. P. SHARMA

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CHAPTER I

THE EVOLUTION OF LOCAL SELF-GOVERNMENT POLICY IN INDIA

The Presidency Town Corporations. Madras was the first Indian city to have a municipal corporation. The Madras corporation was set up by a charter from James II in 1687 and it consisted of a mayor, twelve aldermen, and 60 burgesses both European and Indian. Its powers related to the building of a town-hall, a jail and a school house, and it could improve the roads and undertake lighting, conservancy, and similar other services. It had the power to raise money by taxing the inhabitants, but direct taxation roused great opposition, and the mayor obtained power to levy octroi. The experiment did not prove a success and the Madras corporation languished from want of resources.

In 1726 Mayors' Courts were established at Calcutta and Bombay by royal charter. Their duties, however, were judicial rather than administrative.

The Charter Act of 1793 gave to the Governor-General-in-Council the power to appoint justices of peace from among the servants of the East India Company and the British inhabitants. The justices in addition to judicial duties, had also to provide for scavenging, police, repair of streets etc. The expenditure was met from an assessment on houses and lands.

During 1840-3 the constitution of the presidency corporations and courts was widened and the elective principle was introduced to a limited extent. The arrangement did not, however, work well and in 1856 there was a retrogression. By an Act of that year, the municipal constitution of all the three towns was remodelled and all municipal functions were placed in the hands of three salaried commissioners.

From 1861 onwards, consequent upon the establishment of provincial legislatures, the history of each presidency corporation follows its own separate course.¹

Madras. An Act of 1867 gave to the Madras Corporation 32 members, four nominated from each of the 8 wards

1. Imperial Gazetteer of India, Vol. 4, pp. 284-85.

in which the city was divided. Eleven of these members were officials, and there was also a nominated president. Its functions related to police, education, medical relief, sanitation, and lighting. Power was concentrated in the hands of the president, the members acting more or less in an advisory capacity. The corporation was relieved of its police duties by government in 1871 and by an amending Act of 1878, half the commissioners were made elective. Another Act of 1884 increased the number of elected members to $\frac{2}{3}$, i.e., 24 and finally the Act of 1904 raised the number of members to 36 of whom 20 were elected, and the rest nominated by chambers of commerce and such other organizations as the government might determine. The president in whom the executive authority was vested, was nominated by the government. There was a standing committee consisting of the president and 8 commissioners to look specially to finance and public works. The president could be removed by government on a vote of 28 commissioners.

Bombay. An Act of 1865 reconstituted the Bombay corporation which now consisted of justices of peace and a nominated commissioner in whose hands executive power was concentrated. The justices were appointed for life and had little power to check the commissioner who proved to be all-powerful. This arrangement caused considerable dissatisfaction. A new Act was passed in 1872 in the shaping of which Sir Pheroz Shah Mehta played a leading part. Under it, half the members were to be elected by the rate payers and half were to be nominated by government. The chairman was elected by members. The executive power was placed in the hands of an officer known as commissioner appointed by the government. The corporation itself laid down general policy, voted the budget, and criticised and reviewed the administration. An amending Act of 1888 added eight more elected members. In 1907 the police work was taken over by the government, and the corporation assumed, instead, the entire burden of primary education, medical relief and vaccination.

Calcutta. An Act of 1863 created the corporation of Calcutta made up of a nominated president and the justices of peace residing in the city. The Act of 1876 introduced election so that there were now 48 members elected by rate-payers and 24 nominated by government. The powers of the corporation remained concentrated in the hands of the nominated president whom the members could not control effectively. An Act of 1888 extended the boundaries

of the corporation to include in it 7 suburbs that had grown up. Lord Curzon's Calcutta Corporation Act 1899 cut down the number of members to 50 of whom 25 were elected by the rate-payers, 8 by commercial and other bodies, and the rest were nominated. This act also created a standing committee of 12 after the model of Bombay, but the nominated president continued to retain his powers, unchecked by the members.

Municipal Government outside the Presidency Towns. The earliest beginnings of municipal organization in non-Presidency towns related to the making of arrangements in them for watch and ward. Regulation XVI of 1814 permitted the establishment of ward committees in the large cities. These were to consist of the householders and collect a tax levied on houses and lands to pay the chaukidars. Act XV of 1837 made it legal to apply the savings from the Chaukidar tax to town improvement, and non-official committees were appointed to supervise this. ²

The first municipal Act was passed in 1842. It applied to Bengal only and even there, it could be enforced in any town only if $\frac{2}{3}$ of the inhabitants demanded so by petition. A rate of 5 per cent levied on the annual value of houses and lands was the financial provision made by it. In actual practice, the inhabitants of towns did not show any eagerness for the benefits of the Act. It was introduced in only one town, and there too, the collector was prosecuted for trespass when he proceeded to levy and collect the tax.

This Act proving so unsuccessful was replaced by Act XXVI of 1850. This was an all-India measure, but it was used to a certain extent only in the North-West Provinces (the present day U. P.) and Bombay. ³

The Report of Royal Army Sanitation Commission, 1863. This commission was appointed to report on the condition of the health of the army in India. It found that most of the towns of India were very dirty and insanitary and this affected adversely the health of the troops stationed there. It pointed out the urgent need of making satisfactory arrangements for the sanitation of the towns.

Lord Mayo's Resolution of 1870 and Progress of Municipal Government. In 1870 Lord Mayo issued his famous resolution on financial decentralization. Among other

² Imperial Gazetteer of India, Vol. XXIV, p. 241.

³ Imperial Gazetteer of India, Vol. 4, p. 286.

advantages of the new financial arrangements contemplated, he thought, one would be a vigorous development of local government. "But beyond all this," said the resolution, "there is a wider object in view. Local interest, supervision and care are necessary to success in the management of funds devoted to Education, Sanitation, Medical charity, and Local Public Works. The operation of this resolution in its full meaning and integrity will afford opportunities for the development of self-government, for strengthening municipal institutions and for the association of Natives and Europeans to a greater extent than heretofore, in the administration of affairs." To this end the Governor-General desired the provincial governments and their subordinates to enlist "the active assistance, or at all events the sympathy, of many classes, who have hitherto taken little or no part in the work of social and material advancement." In pursuance of this resolution, municipal acts were passed during the next few years in many provinces liberalising municipal constitutions by the extension of the elective principle.

Lord Ripon's Resolution on local self-government, 1882. The next stage of development of local self-government was reached in 1882 with Lord Ripon's resolution of that year. By this time, municipalities partly elected or wholly nominated, had come to exist in the more important towns of all the provinces, but their chairmen used to be officials, and their work was conducted as though they were just one of the departments of the government. In the rural areas, as will be more fully discussed later on, certain nominated committees had come to exist in each district, made up of officials and non-officials to look after education, dispensaries, roads, public works etc. and they were financed by the proceeds of certain cesses on land revenue. Hitherto all this development had taken place in the wake of the financial policy of the government, and as a corollary of it. From the very beginning, the Government of India found themselves faced with the difficulty of satisfactorily providing for the development of nation-building services like education, roads, sanitation etc. The funds at their disposal for these purposes, were much too limited. They sought relief, therefore, by transferring the burden of these services increasingly to local initiative and effort. As a matter of fact, the early history of the evolution of local self-government in India is inextricably bound up with that of financial policy.

By the eighties of the 19th century, however, there appeared a new factor in the situation. English education,

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imparted in the schools and colleges, had produced a new class of people who wanted for themselves the same opportunities of participation in the management of the public affairs as existed for similar classes in the free countries of the West, and the absence of such opportunities was creating a sense of resentment and discontent in them. Lord Lytton's regime (1875-1880) had tried to suppress this discontent by a series of repressive measures like the Arms Act, the Vernacular Press Act etc. This only added fuel to the fire and when Lord Ripon came as Governor-General in 1880, he found much bitterness existing in the country. His policy of a spectacular advance in local self-government, though partly a result of his well-intentioned liberalism, was intended also in part at least, to assuage the exasperated sentiments of nationalist India.

In his celebrated resolution of 1882, Lord Ripon began by noticing that the development of local self-government in the various provinces had hitherto been uneven, and unsatisfactory. A substantial measure of further advance was necessary in the first place, for relieving the overburdened departments of the government which had hitherto to manage everything important and unimportant, and secondly, as 'an instrument of political and popular education.' He noted that 'as education advanced, there was rapidly growing up an intelligent class of public-spirited men all over the country whom it was not only bad policy but sheer waste of power to fail to utilize.'⁴ He did not expect from local self-government, in the first instance, greater efficiency than from official management, but he 'had no doubt that in course of time as local knowledge and local interest were brought to bear more freely upon local administration, improved efficiency would in fact follow,' if government officers gave to the experiment a genuine trial.

Next, he laid down the principles according to which local self-government should be organised. Regarding local areas, outside the cities and towns with their municipalities, 'the smallest administrative unit—the subdivision, the taluka, or the tahsil—should ordinarily form the maximum area to be placed under a local board.'⁵ Above these boards district boards might be set up either with controlling or co-ordinating powers.

Regarding local constitutions, the principle was that the local bodies should have non-official majorities,

⁴ Govt. of India Resolution on Local Self-Govt., Paras 5 & 6.

⁵ Govt. of India Resolution on Local Self-Govt., Para 10.

the official element not exceeding $\frac{1}{3}$ of the whole. Wherever possible, the system of election should be introduced. It was not necessary to have the same system of election everywhere. The conditions in different localities might be different, and 'the simple vote, the cumulative vote, election by wards, election by the whole town or tract suffrage of more or less extended qualification, election by castes or occupations, new methods unthought of in Europe, might all be tried.' ⁶

Thirdly, the chairmen of local bodies should be non-officials as far as possible, for thus alone the non-official members could feel that they had real power and responsibilities. If collectors remained chairmen, either members would leave all decision to them, or if they took independent attitudes, there might be unseemly conflicts between them and the collectors. ⁷

Fourthly, government control over local bodies should be exercised 'from without rather than from within.' The act of local bodies might in certain cases need previous sanction, *e. g.* in matters of taxation, and raising loans, or might be set aside by government. The local body might even be suspended or superseded in the event of gross and continued neglect of any important duty, ⁸ but normally government control should take the form of friendly advice and remonstrance only.

Fifthly, local services should be under the control of local bodies. Government servants in local employ must act as their servants and not masters.

Sixthly, local bodies should have elastic and sufficient financial resources. They should have freedom to shape their own budgets. ⁹

Finally, to attract suitable candidates for local membership, courtesy titles of Rai Sahib or Rai Bahadur might be allowed to members of local bodies during their term of office which was ordinarily to be two years.

Action on Ripon's Resolution. The resolution of Lord Ripon was based on such liberal principles that it has justly been regarded as the magna carta of local self-government in India. Unfortunately, these principles could not be translated into action completely. They

⁶ Ibid, Para 14.

⁷ Ibid, Para 19.

⁸ Goyt. of India Resolution on Local Self-Govt., Para 17.

⁹ Ibid, Para 21.

were thought to be in advance of time, and the provincial governments whittled them down in the course of giving legislative effect to them. In day to day administration, the district officers and their subordinates whittled them down still further. Election was introduced but without a broad franchise. Provision for election of non-official chairmen was made in the law, but in practice the official chairmen were still retained. Financial independence was not conceded to the local bodies. Under these circumstances local self-government failed to make satisfactory progress.

The Recommendations of the Royal Commission on Decentralization. In 1906 a Royal Commission on Decentralization was appointed to study and report upon the progress of decentralization in India and the directions in which it could be carried further with advantage. In this connection, the commission investigated into the working of local self-government in India also and the conclusion to which it came was that it had so far been a failure. The reasons to which it ascribed this failure were the artificial character of local areas, absence of genuine election, want of financial responsibility, inadequate control by local bodies over their services,¹⁰ and finally too much of central dictation and control. The commission made a number of recommendations to remove these defects.

As regards local areas, the outstanding recommendation of the commission was that the village should be made the basic unit of the local self-government structure.¹¹ There should be for every village or group of villages, a panchayat, informally elected by the inhabitants. Besides managing the common affairs of the village, the members of the panchayat should also constitute the electorate for the sub-district boards of which there would be one in each taluka or tahsil, and for the district boards. Thus the local self-government system would be organized pyramid-like with the village panchayats at its base, the sub-district boards in the middle and the district boards at the apex. The towns, of course, would by continued to have their municipalities.

Regarding local constitutions, the commission recommended that the local bodies should not only have non-official majorities, but their members should also be

¹⁰ The Report of the Royal Commission on Decentralization, Vol. IP, 248.

¹¹ Report of Royal Commission on Decentralization, Vol. IP, 239.

genuinely elected. In case of district and sub-district boards it recommended indirect election by the members of village panchayats, while the members of municipalities were to be elected directly by the rate payers. The representation of minorities was to be secured by nomination rather than by separate electorates. In the municipalities there should be non-official chairmen, but the collector was to continue to be the chairman of the district boards, because in the commissions' opinion, the withdrawal of collectors from these positions would mean their dissociation from the general interests of the districts.

Regarding finance, the commission found that the resources of the local bodies were very inadequate and they had no freedom to shape their own budgets. It recommended that within legally sanctioned limits, local bodies should be allowed to determine their own taxes, the sanction of the government being needed for varying the taxes only where no legal limits existed. Subject to the maintenance of a prescribed minimum working balance, and except where a board was indebted, it should be perfectly free to determine its own budget. The earmarking of particular sources or percentages of income for specified purposes by government or law, was condemned as wrong. In case of district boards, the various reservations and deductions from the landless income should cease, and they should be relieved of the charges of services which they did not control.¹²

The commission recommended that the local bodies should have full power of control over the servants whom they paid, subject to certain safeguards to ensure security of tenure for those officers whose duties frequently brought them into conflict with the public. The government should confine themselves to the enforcement of these safeguards, and to the laying down of the qualifications requisite for the various posts. Where a service could not be placed under local control, it should be entirely provincialized.

Finally as regards outside control, the commission felt that it should take more the shape of advice and encouragement than dictation and forbidding.

Government of India's Resolution of 1915. The report of the Decentralization Commission was made in 1909,

¹² Report of Royal Commission on Decentralization, Vol IP, 259-61.

but the government of India could not make up its mind on its recommendations till 1915 when they issued their resolution of that year on the subject. This resolution was conceived in a conservative spirit and it accepted the commission's recommendations only in a halting manner.¹³ It endorsed the principle of elective majorities, and accepted the policy of creation of village panchayats in a cautious and gradual way. Some of the provinces, however, found it impossible to accept the principle of elective majorities on local bodies, *e. g.*, Bombay. Officials continued to be chairmen of district and sub-district boards everywhere. In financial and many other matters, the pace of advance to be made was left to the discretion of the provincial governments,¹⁴ none of which found it possible to concede to the local bodies financial independence or full control over their services. In short, while a lip-service was paid to the principles of the Decentralisation commission's report, their spirit was ignored.

The Montague Chelmsford Report and the Government of India's Resolution of 1918. The resolution of 1915 had a hostile reception in the country. As a matter of fact it was still-born, for before any action could be taken on it, it was rendered out of date by the swift pace of political events. In 1917 was made the famous declaration of Mr. Montague laying down responsible government as the ultimate aim of British Policy in India. In 1918, the Montague-Chelmsford report on the constitutional reforms was published. It found the progress made by local self-government in India, unsatisfactory. It surveyed the existing position in the following way:—

"The avowed policy of directing the growth of local self-government from without rather than from within has, on the whole, been sacrificed to the need for results; and with the best intentions the presence of an official element on the boards has been prolonged beyond the point at which it would merely have afforded very necessary help upto a point at which it has impeded the growth of initiative and responsibility. Municipal practice varies between provinces; some have gone further in the direction of elected majorities, others in the direction of elected chairmen.....But over much of the country, urban self-government in smaller towns still depends, largely on official support and guidance.....In rural areas, where

¹³ Government of India Resolution on Local Self-Government, 1915, Para 27.

¹⁴ *Ibid*, Para 31-33.

people are less educated and less practised in affairs, and where the interests involved are diffused over large areas instead of being concentrated under their eyes everyday, the boards are constituted on a less popular basis." ¹⁵

The authors of the report laid down the principle that local self-government is the sphere where the first step towards responsible government should be taken, and accordingly "there should be as far as possible, complete popular control in local bodies, and the largest possible independence for them of outside control." ¹⁶

The Government of India's resolution of 1918 made detailed proposals for the application of this policy. It fully accepted the recommendations of the Decentralization Commission, and in some respects even went beyond them. In the first place it fully accepted the principle of substantial elective majorities on the local bodies, and stressed the need of creating a local electorate based on wide suffrage. Nomination was retained only for giving representation to minorities. ¹⁷ For securing official experience, a few experts might be nominated, but without the right to vote. In the second place, chairmen as far as possible should be elected non-officials. There would, however, be no bar to the election of officials to the chairmanship if the members of a local body so desired. In the third place, the resolution fully accepted the proposals of the Decentralization Commission relating to local finance: All local bodies, except those indebted to the government, should have the liberty to vary their taxation within limits laid down by the legislature or with the sanction of the government where no such limits existed. They should be free to make their own budgets subject to the requirement of maintaining a prescribed working balance. earmarking of particular portions or percentages of income for particular objects was to cease. ¹⁸ Fourthly, as regards higher administrative control over the local bodies, it was to be reduced to the minimum consistently with the requirements of efficiency. The power to suspend resolutions or to take action in default or even to dissolve or suspend a local body in cases of grave and persistent neglect of duty or abuse of power would, however, be retained. The resolution rejected the proposal of creating

¹⁵ Report on Indian Constitutional Reforms, 1918, p. 80.

¹⁶ Report on Indian Constitutional Reforms 1918, p. 123.

¹⁷ Govt. of India Resolution on Local Self-Government 1918, Paras 4 & 5.

¹⁸ 'Ibid,' Paras 11-14.

a local government board at the head quarters of each province, as the arrangement had been found unsuitable and was abolished even in England, but a committee or board of the legislative council of the province might be associated with the executive councillor incharge of local self-government portfolio to help him in shaping of policy and decision of appeals coming from local bodies. Such a body might also entertain inspectors, auditors, and other expert establishments, not only to criticise and check, but also to help and advise the local bodies in their activities.¹⁹ Finally, village panchayats were to be established in selected villages to develop their corporate life, but these bodies would not be a part of the regular local self-government structure. On the other hand, they would be under the direct guidance and control of the district officers.

At about this time (1918), there were 700 municipal, 200 district, and 540 sub-district boards in British India. The aggregate income of the municipalities amounted to 492 lakhs of rupees a year or about Rs. 70,000 per municipality per year. The aggregate annual income of district and sub-district boards amounted to about 7 crores of rupees.

Local Self-government after 1918. After the passage of Government of India Act 1919, local self-government became one of the provincial transferred subjects under the charge of a minister. Under popular ministers, new legislation relative to the local bodies was undertaken during the next few years in all the provinces. These new laws made the local bodies almost wholly elective, created a more or less extended system of franchise, restricted the chairmanship of local bodies to non-officials, and made sundry other changes to confer greater powers and independence on them. Side by side, separate representation for the minorities was allowed in many provinces. The connection of Government of India with local government policy ceased, and the provincial governments were left entirely free to chalk out their own separate courses. This introduced a certain amount of diversity in the enactments relating to the local bodies in the various provinces, but in essentials, all of them still followed a common pattern. Provision was made for village panchayats in all the provinces and they were entrusted more or less with similar administrative and judicial powers everywhere.

¹⁹ Govt. of India Resolution on Local Self-Govt., paras 17-18.

CHAPTER II

THE DEVELOPMENT OF THE LOCAL BODIES IN THE U. P.

There are at present five different kinds of local areas and authorities in the U. P., namely, the Municipal Boards, the Notified Areas, the Town Areas, the District Boards and the Village Panchayats. Of these the Municipalities, the Notified and Town Areas are urban authorities existing in cities and towns of varying sizes, while the district boards and the village panchayats exercise jurisdiction in the rural areas. The following is a brief history of these various authorities.

A. THE MUNICIPALITIES

Under Mughal rule, many of the municipal functions in the cities were usually in the hands of the Kotwal. ¹ It was he who was responsible for watch and ward, elementary conservancy, and regulation of offensive trades. Side by side there existed also private initiative by the citizens. In the city of Benares, for example, when it came under British rule, it was found that minor sanitary improvements were regularly financed and carried out by the traders and shop-keepers of the city. ²

The Act of 1850. Under British rule, a beginning in municipal government was not made in the territories of the modern U. P. till the passage of Act XXVI of 1850. This was an all-India legislation. In the N. W. P. it was used at first to establish only three municipalities at Dehra Dun, Mussoorie, and Nanital—places inhabited or used as summer resort largely by Europeans. During the year 1862-3, however, the Act was brought in force at Allahabad and Agra. Meerut and Benares were constituted Municipalities under the same Act in 1866, and 1867 respectively. These were all the municipalities that our province had till 1867. The application of this act to particular towns depended, upon the collector's initiative. The Municipal Committees constituted under it were usually nominated bodies. It permitted the use of indirect

¹ Imperial Gazetteer of India Vol. IV, p. 283.

² Ibid, Vol XXIV, p. 241,

³ Letter from the N. W. P. Govt. of India (No. 1201-A, dated 22nd Oct., 1860. vide the abstract of correspondence in the Municipal Deptt. N. W. P. 1860-1890.

taxation—Octroi, since the house tax had been found to be unpopular by previous experience.

Municipal Act of 1868. The Act of 1850 was superseded by the N.-W. P. Municipal Improvement Act (VI) of 1868. Under this Act, the provincial government, might appoint or order the election of the municipal committees whose term was two years. Ex-officio members might not be more than one-third of the total. Municipal presidents might be appointed or elected as directed by the provincial government. The municipal committees were to meet monthly and their resolutions were to be published.

As regards municipal finance, with the provincial government's sanction, the municipalities might impose a rate on houses, buildings, and lands, a tax on carriages and animals of burden, tolls, and the Octroi. The imposition of any other tax required the sanction of the Government of India.

Police expenditure was to be the first charge on the municipal fund. What was left was to be devoted to roads, drains, lighting, dispensaries, markets and public improvements generally. Aid might also be given to education out of the municipal funds. A budget form was prescribed and municipalities were required to make an annual report on their administration to the government.

The government asked the divisional commissioners to apply the Act of 1868 to all the district head-quarters stations and also to selected mofussil towns. Where possible, the non-official members of the municipalities were to be elected. The district magistrate was to be the president of the head-quarters, and the pargana officer of the mofussil municipalities. The commissioner was to exercise supervision over all the municipalities of his division.⁴ In regard to taxation, the wishes of the community were generally to be respected in selection of the taxes to be imposed. If Octroi were proposed, it must be shown that the cost of collection would not be unduly high, and no impediment to through trade would result.

By the application of Act of 1868 municipal government in the North-West Provinces received an impetus it had lacked hitherto. By 1872 the number of municipalities had risen to 68, and every important urban centre had been included in the scheme. In 48 of these towns, elective system

⁴ Circular No. 25 of 1868/No. 1855 dated 21st April, 1868, vide Abstract of correspondence *ibid*.

had been introduced. The population affected by the municipalities established was 2 millions. The revenues of the municipalities in 1870-71 amounted to 19½ lakhs.

Octroi was the most important source of municipal revenues, yielding 86 per cent of the total income. The House Tax was distinctly unpopular.

Municipal expenditure totalled in 1870-71 Rs. 10 lakhs, of which 4 lakhs were accounted for by police alone. ⁵

Beginning of Municipal Government in Oudh. The oudh records of the General Department were destroyed by a fire in Allahabad secretariate buildings in 1867 and so detailed information regarding municipal arrangements before 1871 for this province is not available. ⁶ From the provincial administration report of 1860-61, however, it appears that wherever town police was maintained, 'chungi' was levied and its proceeds after meeting the police expenditure left a small surplus which was devoted to conservancy and general improvement. At Lucknow, however, a municipal committee had been established and rules had been framed for it under Act XXVI of 1850. In 1864, a special act called the Lucknow Municipal Act was passed for this city. It established there a municipal committee of 25 members, 6 of whom were ex-officio (the commissioner, deputy commissioner, inspector-general of police, civil surgeon, executive engineer, and city magistrate), and 19 annually elected. The chief commissioner under this Act had the power to define the Municipal limits, prescribe the electorate, and to regulate the election of members. With the sanction of Government of India he could suspend the municipality or curtail its powers. The commissioner was the president, deputy commissioner, the vice-president, and the city magistrate the secretary.

The principal sources of revenue were the chungi and proceeds of fines realised under the Act. The collection of chungi was framed out, and its proceeds were paid to the commissioner who allotted out of them such sum (not being less than ⅓ of the total) as he thought fit to the municipal committee.

Under this Act, the police of Lucknow was not under municipal control, nor, as we have already noted the administration of the 'chungi' or the town duty. That is

⁵ N.-W. P. Govt.'s letter to Govt. of India No. 255 dated 7th March, 1872.

⁶ Abstract of correspondence in Municipal Deptt. N.W.P. P. 25

why only a portion of the chungli income was paid to the municipality, the rest being devoted by the commissioner to police.

The Lucknow Act of 1864 could be extended also to other towns under the immediate administration of Governor General, and it was so extended to Fyzabad almost immediately.

Punjab Act XV of 1867 applied to Oudh Towns. Lucknow and Fyzabad appear to have been the only municipalities in Oudh till 1869-70. This year, however, the Punjab Act XV of 1867 (it was so framed as to be applicable to Oudh and C. P. also) superseded the Lucknow Act of 1864, and altogether 15 Municipalities (Lucknow, Fyzabad and 13 others) were constituted under it. Under this Act the Lieutenant-Governor was empowered to apply it to any town and define its municipal limits. The constitution of municipal committees might be nominated or elective, and their president appointed or elected as the Lt. Governor might decide.

The municipalities might impose rates and taxes with the Lt. Governor's sanction, who also made the rules for their collection and account-keeping.

Police expenditure was to be the first charge on municipal revenues and the surplus was to be spent on drainage, conservancy, poor houses, dispensaries, education etc.

The Lt. Governor could suspend a municipal committee.

This act was intended to be a temporary measure only, and was to expire in any province after 5 years of its application.

Assimilation of Municipal Government in N. W. P. and Oudh under Act XV of 1873. Thus for a long time municipalities in the N.-W. P. and Oudh were constituted differently under different enactments. This was put an end to by the N.-W. P. and Oudh Municipalities Act, 1873, which assimilated municipal government in both the provinces to a common type.

This Act merely repeated the provisions of the N.-W. P. Municipal Act of 1868 in most matters. A few innovations made by it, however, deserve notice. The provincial government might apply this act to any town but after hearing objections. They could define municipal limits but no portions of a cantonment could be included in them without the sanction of Government of India. Municipalities were

empowered to make bye-laws to regulate their own procedure and for determining the fare of hackney carriages. Charges on Municipal fund were to remain as before, but contributions in aid of education were also permitted.

Ripon's Resolution of May 1882 and the N.-W. P. and Oudh Municipalities Act, 1883. The Act of 1873 was superseded by the N.-W. P. and Oudh Municipalities Act, 1883, passed in consequence of the policy initiated by Lord Ripon's resolution of 1882.

It provided that the appointed element in the municipalities should not exceed $\frac{1}{4}$ of the total membership and that the rest of the members should be elected. The rules of representation and election were to be drafted by district magistrate in consultation with existing municipal members and other leading residents, to be sanctioned finally by the provincial government. The term of the municipalities was fixed at 3 years. Boards were empowered to elect their chairmen and vice-chairmen, though the provincial government could reserve to themselves the right of appointing the chairman in any board by a special order. Provision was made for joint committees and monthly meetings. As regards municipal employees, some of these were to be borrowed from government services, while for others, the government had the right to prescribe technical and professional qualifications. The sources of municipal revenue and the method of imposing taxes remained the same as before. Government control over the municipalities was to be exercised through the commissioner and the district magistrate who were invested with the necessary powers for the purpose. The provincial government could supersede a municipality and even abolish it with the sanction of Government of India. The functions of the municipal board remained for the most part as before—watch and ward, cleansing, draining, lighting, schools, dispensaries, poor houses, markets etc. For watch and ward the municipalities might keep either a body of watchmen, or a part of general police force. The kind, numbers, and pay of this force were to be settled in consultation with the district magistrate and the police department. A few new powers were, however, also given, e.g., those for regulation of buildings and dangerous and offensive trades.

The N.-W. P. and Oudh Municipalities Act, 1900. The Act of 1883 remained in force till 1900 by which year the total number of municipalities in the province rose to 104.

During this period things in the municipal sphere moved more quickly than before *e. g.*, Octroi was improved by the universal grant of refunds and establishment of bonded ware-houses; a provident fund for Municipal employees was created; and in 1898 a peripatetic audit of local accounts was introduced. In 1900 a new municipalities Act was passed. This act gave to the municipalities larger powers than before to deal with matters of common interest, legalized some new taxes, and made provision for the establishment of notified areas.⁷

Minor amendments were made to this Act, in 1901, and 1907.

The U. P. Municipalities Act, 1916. This Act was passed to give effect to the reforms recommended by the report of Royal Commission on Decentralization (1909) and the Resolution of Government of India of 1915. It further liberalized the municipal constitution, made provision for communal representation by the so-called Jehangirabad amendment, relaxed the government control over municipal finances and budgets, and made certain minor changes in numerous matters of routine. For the rest, it simply reproduced the provisions of the older Act of 1900. Since 1916 this has remained the basic Act governing municipal boards, though it has been amended in important particulars about a score of times.

B. THE NOTIFIED AREAS

As mentioned above, notified areas were first created by the U. P. Municipalities Act, 1900. The object of their creation was to release the smaller towns and the semi-rural communities from the operation of the Municipal Act which had hitherto governed them, and to provide for them a simpler form of administration. Places with a population of more than 10,000, or areas containing a town or bazaar could not be made notified areas. These restrictions were swept away by the U. P. Municipalities Act, 1916, which empowers the provincial government to declare any area other than a municipality, town area, or agricultural village to be a notified area.

C. THE DISTRICT BOARDS

For the rural areas of N.-W. P. and Oudh, no legal provision for local government of any sort was made till 1871, when the N.-W. P. and Oudh Local Rates Act of that year legalised the imposition of certain local rates or cesses and provided for the establishment of

⁷ Imperial Gazetteer of India, Vol. 24, pp. 242-43.

District Committees to look after local affairs. The practical needs of the situation, however, had brought into existence a number of local cesses and contributions, and a net work of local committees to assist in their administration long before this. Till 1870, however, these had for their basis either the administrative rules and orders of the government, or sometimes just a semi-voluntary understanding between the officers of the government and the governed.

The Road Cess and the Surplus of the Ferry Fund and the Roads and Ferries Committees. The earliest among the local cesses was the so-called road cess! It is difficult to say as to when or how it exactly began. Its first beginnings have been traced to the year 1797, 1803, and various other dates. What is certain, however, is that it had become fairly general by 1839-40.⁸ It was levied on the zamindars at 1 per cent of the land revenue in lieu of their old obligation to keep the roads passing through their zamindaris in repairs. By 1857 this cess was universally imposed and paid.

Road-maintenance received some financial help from another source also—the Ferry Surplus Fund. This had been established by Bengal Regulation VI of 1819 which applied to our provinces as well till 1878. Under it, the proceeds of ferry tolls were primarily to be devoted to the protection, safety, and convenience of travellers and trade using the ferries, but if after securing these objects there remained any surplus, the amount was to be applied to the furtherance of similar objects such as 'the repair or construction of roads, bridges, the erection of sarees, or other works of a like nature.'⁹ To begin with, this fund in each district was under the immediate control and management of the district magistrate.

The administration of the proceeds of the road cess and ferry surplus fund was entrusted in 1841 to 'Road and Ferries Committees' whose formation in each district was ordered that year.¹⁰ These Committees consisted of the district magistrate, the joint magistrate and deputy collector, the executive engineer, the civil surgeon, and any other persons whom they might associate with them subject to the approval of the commissioner of the division who was

⁸ See the Report on Revision of Records and Settlement. Operations in Jaunpur Distt. by P. C. Wheeler, pp. 196.

⁹ Bengal Regulation VI of 1819, Section 7.

¹⁰ Notification Judicial Department dated 10th February, 1841, vide N.-W. P. Gazette dated 23rd February, 1841, pp. 41-44.

an ex-officio member of all these committees within his division. The powers of these committees were of an advisory nature. Their recommendations had to be approved by the commissioner or the provincial government according to the amount of the expenditure involved.

Dispensary Contributions and Committees. The first hospital founded in these provinces was the Native Hospital, Benares, started with an amount of Rs. 60,000 collected from the public by the efforts of Bird Brothers. Later, a government grant was obtained for it. This became the usual method of establishing and financing dispensaries in these provinces for a long time. The practice was reduced to definite rules in 1851 by Mr. Thomason, the Lieutenant Governor. The inhabitants of a place desiring a dispensary must contribute enough to erect a building and maintain the institution for two or three years, and later the government might be applied to, for a grant. After 1857, due probably to the loss of records in the mutiny, the Bengal rules on the subject began to be applied, which were more strict than the original N.-W. P. rules, for these required the inhabitants' contributions to be sufficient not only to start the dispensary, but also to meet about the half of the cost of running it permanently, the government contributing the other half.¹¹

The formation of Dispensary Committees was ordered in 1841. These were to consist of the commissioner, the district magistrate, the joint magistrate and the deputy collector, and the civil surgeon, the last being the secretary. Respectable non-official residents might also be made members whenever their co-operation was found desirable.¹²

These committees enjoyed greater powers than the road and ferries committees. Unlike the latter, they were not merely advisory bodies, but were 'standing committees for managing the affairs of the dispensary,' and they had the entire management of the dispensary funds. The branch dispensaries, where possible, had their own committees, but their proceedings required confirmation by the sadar or district dispensary committee.

The Education Cess and the Education Committees. The North-West Province of Agra led the way in India in providing for elementary education by local effort. It was

¹¹ Note on the past History and present state of Dispensaries in N.-W. P. by J. H. Loch M. D., p. 7.

¹² G. O. No. 557 dated 15th May, 1841.

not till 1843 that the government of this province got control over education within its boundaries. During the next eight years a number of schemes were put forward, first to improve the existing indigenous schools, and later to open new schools of an improved kind. The district officers were called upon to enlist the interest and help of zamindars in providing village schools. The first success in this direction was achieved by Mr. Robert Alexander, the collector of Muttra, who persuaded the zamindars of Kosi pargana (it had 56 villages in it) in 1851 to pay for 14 schools. The villages in the pargana were divided into 14 circles or halqas, each with a school in some central village, the zamindars of each circle paying the cost of the school in it. This came to be known as the halqabandi system, and the new institutions themselves were called 'halqabandi' schools. The success of the scheme in Muttra led to its spread in several other districts. The contributions made by the zamindars were in some districts in cash, while in others in grain, and their rate differed from district to district. Nominally they were voluntary, but in practice there was always the official pressure behind them. Where the collector was slack or indifferent, they fell into arrears. To remove this difficulty Mr. Reid, the Visitor-General of the province (the predecessor of the present day D. P. I.) proposed in 1852-3, a one per cent cess on the rent-rolls of the zamindars for education purposes. The proposal was sanctioned by the court of Directors in 1856¹³ Next year, the settlement officers were directed to impose it wherever a new settlement was in progress. The cess was deducted from the rent-roll before fixing the government demand, and since the latter was usually 50 per cent of the former, half of the incidence of cess fell on the government, and half on the zamindars.

In the early years of the Halqabandi system the new schools were under the immediate control of the collectors, but on the government acceptance of the plan, they were transferred to the management of the Education Department. In 1863 the Education Cess itself was merged into a consolidated local rate of 5 per cent which was made part of the revenue demand now fixed at 55 per cent of the jamabandi. Thus both the education cess and halqabandi schools lost their local and separate character. Against this, the Aligarh zamindars protested by a petition to the government in 1866. They represented that 'while your

¹³ Educational letter from the court of Directors No. 26 dated 8th May, 1856, Paras 40 and 41, vide selection from the Records of Govt. of India, Vol. LXXVI, p. 57.

petitioners pay for the expenses of education, it is obviously a hardship that they should not be allowed to take any part in the management of the system.....' The provincial government rejected the general claim put forward that the tax-payer should manage and control what he pays for, but they promised 'to give the district officer and the native aristocracy some voice in the local management of schools.....' ¹⁴ Accordingly next year they ordered the formation of Education Committees in each district.

These committees consisted of the district magistrate, the judge, the joint and assistant magistrate, the civil surgeon, the principal sadar Amin and Munsifs, the tahsildars and the deputy inspector as their ex-officio members and these had the power to recommend the names of some influential gentlemen to be appointed the non-official members. ¹⁵ The commissioners and inspectors of schools were ex-officio members of all the educational committees within their division. The functions of these committees were purely of an advisory and supervisory character. They could issue no orders directly to the education officials but only make recommendations to the Director of Public Instruction.

Provincialization of the Cesses Under Local Rates Acts of 1871 & 1878. The cesses gradually lost their local character and were provincialized. The first declaration to this effect was made by the government of the province in 1866 in the course of their reply to the petition of Aligarh zamindars, but both the cesses and this declaration had no legal basis till the passage of N.-W. P. and Oudh Local Rates Act, 1871. The immediate occasion for this enactment was provided by the need of certain financial adjustments consequent upon Lord Mayo's Financial Decentralization Scheme which had distributed the deficit of the Government of India among the provinces and called upon them to make it good by additional taxation or economies. In N.-W. P. and Oudh it was proposed to do this partly by the provincialization of the cesses. The proposal was opposed by many of the officials themselves, but the provincial government's view was that it itself was the local government (as indeed the nomenclature of the time called it), and the cesses belonged to it. The Local Rates Act of 1871, due to the opposition of the localists had to content itself with the mere declaration that the proceeds

¹⁴ N.-W. P. Govt. Resolution No. 2328-A, General Depart. dated 14th July, 1866.

¹⁵ N.-W. P. Resolution No. 1043-A, General Deptt. dated March 30, 1867

of the cesses belonged to a provincial fund, but otherwise, their full yield in any district was to be assigned to that district yearly for expenditure. Unspent balances would lapse to the provincial government. The Local Rates Act, 1878, however gave the final blow to the local character of the cesses in these provinces. Under this Act, the provincial government were empowered to make a number of 'appropriations' and 'reservations' from the proceeds of the cesses for purposes and services controlled not by local officials and committees but by themselves. This retrograde step in local finance hampered the local bodies in the rural areas—first the district committees, and then the district boards—for a long time. It was not till 1914 that these appropriations and deductions from their cess income entirely ceased.

Local Committees after 1870. As we have seen, upto 1870 there existed a number of distinct committees in each district to look after roads, schools, and dispensaries, though they had a common official membership in most cases. The local Rates Act 1871, however, fused these committees in each district into a single district committee styled, officially the 'Local Fund Committee'. It might establish sub-committees of itself to look after its various functions, *e.g.*, roads, schools, dispensaries etc. The district or the Local Fund Committee had the commissioner, the district and joint magistrates, the civil surgeon, the superintendent of police, the district engineer, and deputy inspector of schools as its ex-officio members, (the inspector of schools and Divisional Engineers too being members of all district committees within their division), while a number of additional members at least half of whom must be non-official residents of the district or owning or occupying land therein were nominated by the district magistrate subject to the commissioner's approval.

Of the sub-committees, there existed usually in each district an Educational Committee, a Dispensary Committee, and a Public Works Committee. The education sub-committee was the most important of these and consisted of the district magistrate as president, one of his assistants as secretary, and the Inspector and Deputy Inspector of Schools, tahsildars, headmasters of Zilla Schools and principals of any colleges within the district as ex-officio members. There were also a number of additional nominated members including some non-officials. The constitution of other sub-committees with appropriate variations in the ex-officio element, followed a similar pattern.

As regards the powers of these committees, there was a wide diversity after 1870. The education committees which had begun as advisory bodies in 1867, got the management of Halqabandi Schools in N.-W. P. in 1874 and of tahsili (the present day vernacular middle) schools in 1877. In Oudh this power was given to these committees in 1882. Henceforth these committees began to appoint and control the teachers, locate the schools, repair their buildings, prepare the education budget and so forth. Other sub-committees did not keep pace with the education committee in respect of the increase of their powers. They remained more or less advisory in character till 1883.

The N.-W. P. and Oudh Local Boards Act, 1883. This Act was passed to give effect to the principles of Lord Ripon's resolution of 1882 in regard to local self-government in the rural areas.

Broadly speaking this Act and the rules made under it provided for a local board in every tahsil except certain backward areas where the old system of nominated committees was to continue. Each of these boards consisted of 6 to 12 elected members and a number of nominated members not exceeding $\frac{1}{2}$ of the total membership. The elected element was, however, returned by a nominated electorate of 20 to 25 persons in each tahsil, so that it was elective only in name. Above the local boards in each district, there was a district board made up either of the aggregate of the members of the former, or of only a few representatives from each. The term of both the local and the district boards was 3 years, $\frac{1}{3}$ of the members retiring annually. The local boards were to exercise such powers and have such funds as the district board allowed. The act permitted the election of the chairman, but the election had to be approved by the provincial government, and the net result was that the collector remained everywhere the chairman of the district boards, and one of his subordinates, of each of the local or tahsil boards. As regards powers, the district boards got control over all schools within the district except the zila schools (the present day Government High Schools), but in respect of public works, medical relief etc., their powers were extremely circumscribed. Thus for all works costing more than Rs. 1,000 outside sanction was required. In respect of dispensaries the position remained the same as under district committees. Public health and sanitation were largely under the district officer and the civil surgeon, and boards had to do little in these matters except provide funds when possible. Most of the higher servants of the board had either to be borrowed from government service or

else, were under provincial control in respect of appointment, promotion, transfer, and discipline. It was, however, in respect of their finance that the boards fared the worst. Their sources of revenue continued to be as before, namely, local rates, receipts from pounds and ferries, government grants, and fees from their schools etc. The proceeds of local rates, however, were subject to numerous reservations and deductions made by the provincial government for services which were in no way under the control of the boards, while the other sources of their revenue were comparatively insignificant and inelastic. Because they did not control their income, they could not be allowed to control their expenditure either, which had to follow certain scales laid down by the government on the basis of previous years. The grants were a device to produce an exact balance between the income and expenditure of each board. When there was a surplus, it was taken away by the government, and where there was a deficit a grant-in-aid was given. Unspent balances were yearly resumed.

The Act of 1883 thus simply put the old wine in new bottles.

The U. P. District Boards Act, 1906. This Act superseded that of 1883. It introduced two principal changes. Firstly it abolished the local boards as useless bodies. Secondly it liberalised somewhat the finances of the boards by abolishing some of the reservations and deductions from the local rates. A system of contract grants on a triennial basis was inaugurated, which took into account not only the existing expenditure of the boards, but also their future needs in respect of public works. Some minor changes were introduced in various matters of routine.

The U. P. District Boards Act, 1922. The Act of 1906 remained in force till 1922. The years intervening between these two dates, saw the recommendations of the Decentralisation Commission, the first Great War, the Montague Chelmsford scheme of constitutional reforms, and the resolutions of Government of India of 1915 and 1918 on local self-government. These events made the public demand for the reconstruction of rural self-government in the province insistent. A committee, known popularly as the 'Rule 13 Committee' was appointed in 1918 to draft proposals for the reform of district boards and its report was ready the same year, but the question was allowed to wait till the new ministries under the Montford reforms were in office. Accordingly it was not till 1921 that a bill was introduced to reform the district boards, and upon its passage it became

the U. P. District Boards Act, 1922. This Act with its later amendments constitutes the basis of the U. P. district boards today.

D. THE TOWN AREAS

The so-called Act XX towns were the predecessors of the present town-areas. They derived their name from the fact that they were subject to Bengal Chowkidari Act XX of 1856. This measure was enacted to make better provision for the watch and ward "of cities, towns, stations, suburbs and Bazaars of the Presidency of Fort William." It was extended to the provinces of Agra and Oudh in 1874 and 1876 respectively. Under this act the magistrates determined the amounts needed in the various towns to which it applied, for maintaining the town chowkidars, and the amount was then distributed among the town dwellers either on the basis of their general circumstance and property or of the annual value of the premises occupied. The magistrate in whose jurisdiction a town lay, appointed for it a panchayat of 3 to 5 members from among the residents of the town. The term of these members was only one year. The proceeds of the tax were applied to the maintenance of a body of watchmen or chawkidars. Any surplus could be applied to sanitation, and general improvement of the town concerned.

This Act continued in force in these towns till 1914 when it was replaced by the U. P. Town Areas Act of that year. The principal change made by this Act was to relieve the towns of their watch and ward duties and to make their panchayats (now known as Town Area Committees) purely sanitary authorities. Their source of income remained as before.

E. THE VILLAGE PANCHAYATS

Village panchayats existed in India from time immemorial. We find references to them in the Vedas, the epics, and the political literature of the ancient Hindus. Details of constitution and functions of these bodies are not exactly ascertainable from these references, but there is no doubt that they played a very important part in the management of the local affairs of the village and formed a recognized part of the constitutional machinery of the Hindu State. The Mohammadan invasion and occupation of the country had a weakening effect on them, and some of their functions passed into the hands of local land-owners or the officers of the state, but they still continued to exist throughout the period of Muslim rule. In the South where

the Muslim influence was slow to penetrate, they survived in a more or less vigorous form until after the British occupation. Writing of the Bombay presidency, Monstuart Elphinstone, its first governor, wrote in one of his minutes (1819) that he found each village to be a little republic with its panchayat at its head, and that this body provided for watch and ward, settled disputes, and maintained a body of village servants to provide the essential services. From all this he concluded that the panchayat could continue to look after the essential needs of the village even if all other government were withdrawn. In northern India, however, panchayats had lost much of their vitality by the 19th century, and were much weaker than in the South.

The establishment of British rule killed the panchayats finally. For obvious reasons, the new rulers preferred all functions of the government being in the hands of their own officials, and since the time of Lord Cornwallis onwards, one local function after another was transferred from the panchayats or the local landlords to the officers of government. By the middle of 19th Century, panchayats in their old form had disappeared, though their memory and tradition continued to linger, specially in Southern India.

Even among the officials of the British government there were some who deplored this change, and criticised the policy of centralization, but their protests went unheeded. In course of time, however, the government themselves realized that centralization had made their administrative and financial burdens intolerable. This discovery led to the initiation of the policy of local self-government. The policy, however, did not mean a return to the old system of the panchayats because the authorities were distrustful of the independent working of a network of such bodies in remote villages away from the eyes of the responsible officers of the government. They accordingly created artificial local areas and bodies like the tahsil or district boards. These, however, failed to work well.

The Royal Commission on Decentralization (1906) which among other things studied the working of local self-government in India, recorded the verdict that it had failed, specially the rural part of it. There were many reasons for this failure but the most fundamental of them was the artificial character of local areas and authorities established. They represented no real community of interests and did not correspond to any natural unit of population. They accordingly recommended the resurrection of the ancient institution of village panchayats. "We

are of opinion" wrote the commission, "that the foundation of any stable edifice which shall associate the people with administration must be the village, as being an area of much greater antiquity than the administrative creations such as the tahsils, and one in which the people are known to one another and have interests which converge on definite and well recognized objects like water-supply and drainage. It is probable, indeed, that the scant success of efforts hitherto made to introduce a system of rural self-government is largely due to the fact that we have not built up from the bottom." ¹⁶

In their resolution of 1915, Government of India accepted the principle of the establishment of the panchayats with certain safeguards. The panchayats were to be established only in selected villages where conditions were favourable for their successful working, and there were no religious, factional, or caste disputes to mar it. They were not to form a part of the usual local government structure, but were to be placed under the care and supervision of the collectors. They were not to levy any taxes, lest the people should think that they were only a new device to extort more money from them. With these cautions, the recommendation of the commission for the creation of village panchayats was commended to the provincial governments for action.

In the U. P. a committee was appointed to study the question in 1918, and its recommendations were embodied in the U. P. Village Panchayats Act, 1920, which with two later amendments governs the Village Panchayats today.

¹⁶ Report of Royal Commission on Decentralization, Vol. I, p. 239.

PART II

THE MUNICIPALITIES



CHAPTER III

THE CONSTITUTION OF MUNICIPAL BOARDS

How Municipalities are created. The provincial government can declare any local area (except a cantonment area) to be a municipality by a notification.¹ This they may do of their own accord, or on the application of the inhabitants of the area concerned.

At least two months before its final issue, the draft of the notification must have been published in the Gazette and posted at prominent places within the local area and at the court of the district magistrate.² This is done to give to the public and various interests affected time to formulate their objections and criticism. These, if any, are duly considered and after the lapse of the two months, the final action is taken. The same procedure is adopted for making an alteration in municipal boundaries, or in abolishing a municipality altogether.³

When a place desires to become a municipality, it must make an application (signed by some of its inhabitants) accompanied by the details as to boundaries, population, principal classes of inhabitants, sources and amount of income, proposed number of members etc.⁴ This application with the collector's report (it is through him that the application has to be made) is forwarded to the provincial government who finally dispose of it. A change of boundaries in an existing municipality has similarly to be applied for though in this case the application is made by the board and not the inhabitants.

City and Non-City Municipalities. In the U. P. a distinction is made between city and non-city municipalities. A city means a town with a population of 100,000 or more, but the status of a city municipality may be conferred by the government by a notification on any municipality even though its population is smaller.⁵ At

¹ U. P. Municipal Act, 1916, Sec. 3 (1) (a).

² Sec. 4.

³ Sec. 3 (1) (c).

⁴ Circular No. 25-A dated April 21, 1933.

⁵ Sec. 3 (1) b

namely, Agra, Bareilly, Moradabad, Cawnpore, Benares, Lucknow, Allahabad, Meerut, Fyzabad, Mussoorie, Nainital present there are 12 city municipalities in the province, and Dehradun. The last five of these have a population of less than 100,000 each. The non-city municipalities are 74 in number.

The constitutional significance of the distinction between city and non-municipalities is that the former and their principal officials have somewhat higher powers in matters of sanction of contracts, making of appointments etc. than the latter, and are in certain matters under the direct control of the provincial government instead of the commissioners. ⁶

Municipal Boards as Bodies Corporate. Every municipal board is a body corporate with a perpetual succession and common seal, and the rights of suing and being sued in its corporate name of acquiring, holding and transferring property and of entering into contracts.

The Various Patterns of Municipal Constitutions in the U. P. In U. P. the municipalities may be constituted under section 9 or 10 of the Municipalities Act subject to the proviso that the latter section can be applied only to Nainital and any other municipalities created after July 1, 1916. At present Nainital is the only municipality constituted under section 10. The difference in the constitution of the municipalities under section 9 and 10 is that in the former case the strength or proportion of the nominated element is statutorily prescribed, while in the latter case the provincial government can fix it in their discretion in each case. ⁷ Of the Municipalities constituted under section 9 too, there are two patterns and here also the distinction relates to the strength and method of appointment of the nominated element. One of these patterns applies to municipalities to which the principle of communal representation (under section 11) has been applied and in case of these the nominated element cannot exceed $\frac{1}{2}$ of the elected element. ⁸ The second pattern applies to municipalities where communal representation has not been introduced and in these the nominated element can be up to $\frac{1}{3}$ of the elected members. ⁹ At present there are only three municipalities constituted after the latter pattern, namely, Mussoorie, Hardwar Union, and Brindaban. All the municipalities in the U. P.

⁶ Section e.g. Section 96 (i), 74, 75, 133 etc.

⁷ Section 10,

⁸ Section 9 (c).

⁹ Section 9 (d).

with the exception of four, therefore, are constituted similarly, *i. e.*, with a nominated element not exceeding $\frac{1}{2}$ of the elective membership.

The Constitution of the Municipal Board. As constituted at present a municipal board consists of three elements, namely, a certain number of elected members fixed in each case by the government, a nominated element laid down by the Act, and a chairman who if a non-member at the time of his election becomes a member *ex-officio*.

The Elected Members. The number of elected members varies from 6 in case of smaller municipalities like Kalpi and Baraut to 31 in case of the larger ones like Allahabad. There is no precise rule to determine the number of elected members in a given municipality, but roughly the population serves as a basis. A former minister of local self-government once explained this basis as follows :—¹⁰

Population less than 50,000	Not more than 12 members.
" " $\frac{1}{2}$ to 1 lakh.	" " " 16 "
" " 1 to $1\frac{1}{2}$ "	" " " 20 "
" " $1\frac{1}{2}$ to 2 "	" " " 24 "
Over 2 lakhs	" " " 28 "

i. e., for every 50,000 of population 4 members or so are added.

The elected members are returned from Muslim, Non-Muslim or Special Constituencies. Separate representation for Muslims exists in all the municipalities except Mussoories, Nainital, Hardwar Union and Brindaban. Special representation has been given to the Marwaris ¹¹ at Cawnpore (2 members), Europeans at Lucknow and Dehradun (2 and 5 members respectively), and the railway employees in civil lines at Kasganj (1 member).

Communal Representation for Religious Minorities. The Government are empowered by the U. P. Municipalities Act, 1916, to arrange for the special representation of any class. ¹² Special representation on religious grounds can, however, be given only to Muslims and non-Muslims. ¹³ The representatives of the class enjoying special representation are elected by separate electorates. ¹⁴ It

¹⁰ Hon'ble Nawab Md. Yusuf's speech in the U. P. Legislative Council.

¹¹ This was abolished just before the general election of 1944.

¹² Sec. 11 (i) (b).

¹³ Sec. 11 (2).

¹⁴ Sec. 15 (3) (c)

should be noted thus that communal representation for Muslims and non-Muslims is, by no means, statutory or obligatory in the U. P. Municipalities. It is at the option of the government to allow it or not in any given municipality. Should the government, however, decide to allow it (in practice they have allowed it in all the municipalities except four), its scale is statutorily regulated by section 12 of the Act.

The scale of communal representation for the Muslims or non-Muslims in any municipality is fixed with reference to the total number of elective seats assigned to the two communities together. This number can be found out by deducting from the total number of elective seats in the municipal board the number of elective seats assigned to any class on other than religious grounds.¹⁵ Thus if in a given municipality, there are altogether 30 elective seats, and 2 of these are assigned let us say to a particular business or trading community, the scale of communal representation for Muslims and non-Muslims will be calculated with reference to the remaining 28 seats only. Next, the proportion of the population of the class whose representation is to be calculated, to the total population of the municipality has to be found out. If this proportion is less than 25%, it is to be increased by $\frac{3}{10}$, i.e., a minority forming less than 25% of the total municipal population is given a weightage of 30%. If the proportion in question be between 25% and 38·3% of the total population, it is raised to the latter figure.¹⁶ The minority is assigned the same proportion of the total number of elective seats under reference, as its number thus weighted bear to the total Municipal population. Where the population of the class under discussion is 38·3% or more of the total Municipal population, it is given seats on the population basis only without any weightage. The figure 38·3 which marks the upper limit of the proportion upto which weightage is permissible, represented the proportion of the Muslim population in all the municipalities of the province put together to the total municipal population of the province after the 1941 census.¹⁷ Thus it is not a constant or invariable quantity, but is fixed anew after every decennial census.¹⁸

It should be noted that theoretically the weightage allowed under this scheme is available for Muslim and non-Muslim minorities both. In practice, however, its benefit

¹⁵ Sec. 12 (2).

¹⁶ Sec. 12 (3).

¹⁷ The previous percentage according to census of 1931 was 39·3

¹⁸ Sec 12 (5).

accrues to the Muslims only, because the Non-Muslims, though they constitute a minority of total municipal population in some municipalities, are nowhere fewer than 38·3% of the total municipal population.

Sometimes the calculation of number of seats under this scale involves a fraction in the final result. This fraction is disregarded unless it exceeds one-half and effects the minority class. If it is more than half and affects the minority, the latter is given one more seat for it, and the total number of elected members in the municipality is increased by one to make this adjustment possible. ¹⁹

The Nominated Element. The nominated element can be upto $\frac{1}{4}$ of the total number of elected members in municipalities where communal representation for Muslims, and non-Muslims has been introduced, and upto $\frac{1}{3}$ of the same in municipalities without communal representation. Over and above these maximum proportions, the government can also add one nominated woman member to each municipality. ²⁰ In case of municipalities constituted under section 10, the proportion of nominated and elected elements is left entirely to the discretion of the government.

In municipalities with communal representation, not more than three of the nominated members can be nominated by the government. One of these must be from depressed class, a second a representative of some special interest otherwise, unrepresented, and the third a woman. ²¹ None of these nominees can be a government servant or a candidate defeated at the preceding general election. The nomination of the woman member must not disturb the communal proportions in the board so as to reduce the majority to the position of equality with the minority. The remainder of the nominated members are appointed by the nominating bodies constituted by the government. ²² There are usually the chambers of commerce, railways, universities, various professional and occupational associations, and the various other important interests within the municipality.

In the municipalities without communal representation, all the nominated members may be appointed by the Government itself or in any other way laid down by rule. In these also, however, three members must be appointed as

¹⁹ Sec. 12 (4).

²⁰ Sec. 9 (i) (c) & (d).

²¹ Sec. 9(2), Proviso.

²² Sec. 9 (2).

above, *i.e.*, one from depressed classes, another to represent some interest otherwise un-represented, and the third a woman. Government servants and persons defeated at the preceding general election are ineligible for nomination as above.

The Chairman. Any member or person qualified to be a member of the municipal board, provided that he is not a whole time salaried Government servant, or a member or servant of a district board can be a candidate for municipal chairmanship.²³ When a board is completed, *i.e.*, when all the elective seats on it have been filled up after a general election, it proceeds to elect its chairman. The Government have the power to declare by notification, that the chairman of any particular board shall be nominated by them and not elected, but such declaration is operative only for a year except in case of these boards that had an official chairman on April, 1929.²⁴ At present there are no municipal boards regarding which such a declaration has been made and all of them have elected chairman.

The date of the chairman's election is fixed by the government by a notification in the Gazette. The time for it is 2 P. M. and the place the board's office. The meeting is presided over by a civil stipendiary judicial officer appointed for the purpose by the government, but he has no right to vote. If only one candidate is proposed, he is declared elected unopposed. If not more than two are proposed, the candidate who gets the larger number of votes is declared elected. If more than two candidates are proposed, then voting is done twice. At the second voting, all candidates except the top two at the first voting, are eliminated, and that one of two who now gets the larger number of votes is declared elected.²⁵ This second ballot system is intended to insure that the person elected chairman shall have the support of a clear majority of board's members or at any rate of those present and voting, but the procedure has two defects. In the first place, no quorum is prescribed for the meeting electing the chairman so that if the attendance is thin, the man elected may after all be the choice of only the minority of the board's members! Secondly it may happen that even when there are more than two candidates, of them may secure a clear majority of votes at the very first ballot, and in that case the second voting is redundant.

²³ Sec. 43 (1).

²⁴ Sec. 43 (3).

²⁵ Sec. 44 (3).

If on the day of meeting by 4 P. M. the chairman is not elected for some reason (*e.g.* on account of rowdyism or disturbance), the meeting is adjourned. On the 7th day after the adjournment it is again held at 2 P. M. under the same conditions. If the chairman is not elected by 4 P. M. even at this, the minutes of both the meetings are forwarded to the government who will nominate a chairman themselves. ²⁶ In case of equality of votes, the presiding officer decides the question by drawing lots. Casual vacancies in chairmanship are filled up in a similar manner. ²⁷

This detailed procedure for the election of the municipal chairman was necessitated by the fierce factional rivalries that the contest for the office used to arouse. The disappointed candidates and their supporters used to question the successful candidates' election on the ground that due notice of it was not given, or that the election took place in a hole-and-corner meeting, or that the presiding officer practised favouritism and the proceedings were irregular. The present procedure was intended to be a fool-proof one in respect of all these complaints, and experience has shown that it is so.

The voting for the chairman's election is not secret. The members have to sign their names on their voting paper. The term of the chairman is from the date of his own election or nomination to the date of his successors' nomination or election. ²⁸ In the ordinary course of things this means that it is about the same as that of the board, namely, 4 years. No one can be elected chairman for more than two consecutive terms, except with the permission of the Government or Commissioner in case of the city and non-city municipalities respectively. ²⁹

A municipal board's organization for the transaction of business is complete after the chairman's election. There is also a vice-chairman, or a board may have two vice-chairmen, a senior, and a junior one. These are elected by the board by special resolution and their term is only one year. ³⁰

The Privileges and Liabilities of Municipal Board's Members and Chairmen. The membership of a municipal board

²⁶ Sec. 43 (2).

²⁷ Sec. 44-A.

²⁸ Sec. 46.

²⁹ Sec. 45.

³⁰ Sec. 54.

is an honorary service. No salary or allowance is permissible for members except in special cases with the sanction of the commissioner.³¹ They have no freedom of speech or from arrest. Their only privilege is to participate in board's proceedings and with chairman's permission to inspect its institutions, works, and records.

The liabilities of a member, however, are many. He is liable for the loss, waste, or mis-application of board's property and funds if these result from his neglect or misconduct and in such a case he may be sued by the board for compensation. He may also be surcharged for such loss etc. by the Examiner Local Funds Account. Deliberate acquisition of a share or interest by him in any contract or employment under the board is an offence under Sec. 168 of the Indian Penal Code.³² Finally, for certain reasons the Government (or the Commissioner in case of non-city municipalities) remove a number.³³ These reasons are long absence from municipal meetings, insolvency, acquisition of interest in a contract or employment under the board, appearing as a counsel in any suit against the board on behalf of the opposite party, being sentenced to transportation or imprisonment for a term exceeding one year for an offence involving moral turpitude or being ordered to find security for good behaviour, and finally flagrant abuse of his position by a member. Before removal, the member concerned is given an opportunity to explain. Removal for some of these reasons results in ineligibility for future election either for a stated period or till the Government order otherwise.³⁴

Since the chairman also is either an ordinary or ex-officio member of the board, he too is subject to these liabilities. He can be removed by the Government for the reasons mentioned above as well as for the 'habitual failure to perform his duty.'³⁵ The chairman can also be removed by the board by passing a motion of no-confidence against him.

Procedure for No-confidence Motions. The procedure for no-confidence motions against the chairman is at present regulated by the Municipalities Amendment Act XIII of 1942. Written notice of such a motion signed by not less than $\frac{1}{2}$ of the total number of board's members has to be given to the district magistrate by any two of the signatories in person. The district magistrate then fixes a date

³¹ Notification No. 1113/XI-504-E dated June 5, 1919.

³² Sec. 82.

³³ Sec. 40.

³⁴ Sec. 41.

³⁵ Sec. 48 (2).

for its discussion, and sends to the members at their residence address seven clear days' notice of it by registered post. A civil stipendiary judicial officer is selected by the district magistrate to preside over the meeting held to discuss the no-confidence motion. Three hours are allowed for discussion and then the question is put. If it is supported by a clear majority of the board's entire membership it is carried, otherwise, it fails. If it is carried, the chairman is removed by the government by a notification published in the Gazette. If it fails, no fresh motion of no-confidence can be brought against the chairman for a period of 12 months. Also, no motion of no-confidence is admissible against a newly elected chairman till after the expiry of 12 months. A meeting to discuss a no-confidence motion cannot be adjourned for any reason other than the absence of the presiding officer. Want of quorum at it amounts to the failure of the motion.

This procedure represents the final outcome of a long process of trial and error in the legislation upon the subject. No confidence motions have called into play such fierce passions, controversies, and mutual recriminations that the simple procedures laid down by the legislature in the past have proved inadequate to regulate them. The present procedure based on the experience of the evasions and twists hitherto practised by opposing interests involved in the passage of new confidence motions, is intended to be fool-proof. Incidentally, it is also designed to afford a certain measure of protection to the chairman against unwarranted attacks from his opponents.

CHAPTER IV

THE MUNICIPAL ELECTORATE AND ELECTIONS

The Municipal Suffrage. The following classes of persons unless they are subject to some disqualification, are entitled to be enrolled Municipal voters ¹ :—

(1) Persons assessed to municipal taxes (other than Octroi or tolls etc.) of a specified minimum annual amount which is fixed separately for each municipality by rule. Usually the amount is a small one, *e.g.*, it is Rs. 3 in smaller municipalities and Rs. 5 or Rs. 6 in bigger ones like Allahabad. At Cawnpore, however, it is Rs. 20.

(2) Graduates with 12 months' residence.

These two are the only statutory qualifications applying to all the municipalities automatically. Besides these there are also the following non-statutory qualifications, which apply to a municipality only when extended to it by rule and not otherwise, namely, 12 months' residence and

(a) paying of income tax, or

(b) being the owner or occupier of a building in the municipality of a certain minimum annual value

or

(c) being in receipt of a certain annual income fixed by rule, or

(d) payment of land revenue upto a certain amount annually, or

(e) payment of a certain amount of annual rent as a fixed rate, exproprietary, or occupancy tenant.

In regard to the non-statutory qualifications two things deserve notice. First, in actual practice, they have been extended by rule to practically all the municipalities, with a few exceptions made here and there because of the unsuitability of a particular qualification in a given case. Thus qualification (c) has not usually been adopted in bigger cities, while (b) is not applied to municipalities which do not have the tax on houses and lands in force. Secondly, the maximum amounts fixed in respect of annual value of houses owned or occupied, or of land revenue and rent paying qualifications cannot be higher than those fixed for the voters, of the provincial legislative Assembly. Thus the maximum annual value of buildings owned or occupied

¹ Sec. 14.

cannot be fixed at more than Rs. 24 nor the annual revenue and rent payable by voters at more than Rs. 5 per annum.

Disqualifications. The following persons are disqualified from being voters :—

- (1) Persons under 21 years of age.
- (2) Persons who are not British Subjects.
- (3) Those of unsound mind.
- (4) Undischarged insolvents.
- (5) Those in arrears of municipal rates and taxes, and
- (6) Persons who have been sentenced to imprisonment for a term exceeding one year or transportation for an offence involving moral turpitude, or who have been ordered to find security for good behaviour. This disqualification, however, ceases to operate after the expiry of 5 years, and the Government can remove it at any time by an Order to that effect.

The Electoral Roll. However qualified a person may be, he cannot be a voter till his name has been enrolled. The preparation or revision of the municipal electoral roll is done under the supervision of the district magistrate. It must be ready by 7th November next preceding the general election. A separate roll for each ward and for each class enjoying special representation has to be prepared. No person can be enrolled in more than one ward, or on the roll of more than one class.

The first step in the preparation of the electoral roll is the appointment of a returning officer by the district magistrate under whose immediate supervision the work is done. The name of persons having the house-owning, local tax paying, or revenue and rent paying qualifications are compiled from the municipal assessment lists and revenue records. List of occupiers are made by 'convassers', specially engaged for the purpose, by a house to house visit. The graduates and income tax payers have to apply to the returning officer and prove their qualifications in order to be enrolled.

The draft electoral rolls are published for claims and objections for inclusion or deletion of names from the rolls. These are heard and decided by a committee of revision consisting of the returning officer and two municipal members selected by the board for the purpose. Appeals from the decision of the committee lie to the district magistrate whose orders are final. The returning officer and the district magistrate can order the necessary alterations in the rolls on their own initiative also. The amended rolls are finally published, go into operation on November 10, and remain in force till November 10 preceding the next general election. The rolls are published in Hindi and Urdu, but

the government may order their publication in English too. If the revised rolls are not ready in time, the previous roll remains in operation. ²

Qualification of Candidates and their Nomination. Ordinarily, every person enrolled as a voter can be a candidate for municipal elections. ³ The candidature of a person is not limited to the ward in which he is enrolled as a voter. He may seek to represent any constituency in the municipality. There is nothing in the act to prevent a non-Muslim representing a Muslim constituency or *vice versa*.

A municipality may, however, by rule made for the purpose by the Government fix higher qualifications for the candidates so that being a mere voter may not entitle a person to be a candidate for election. ⁴

Disqualifications for candidates. The following are the disqualifications for candidates for municipal elections :—

(1) Dismissal from government service and debarment from re-employment therein,

(2) Debarment from legal practice in case of a legal practitioner,

(3) Holding any place of profit in the gift or at the disposal of the municipal board,

(4) Being found guilty of electoral corrupt practices, or removal from membership for a reason causing disqualification,

(5) Being a stipendiary magistrate or police officer, and

(6) Inability to read and write English or one of the Vernaculars of the province.

Disqualifications (1) and (2) are removable by order of Government at any time.

Nomination. On or before November 15, the intending candidate has to apply for a nomination paper and make a deposit of Rs. 50/-. The candidate need not be from the constituency or ward he seeks to represent, but may stand from any constituency within the municipality. The nomination paper must be subscribed by a proposer and a seconder both of whom must be qualified voters within the constituency the candidate seeks to represent. On a date fixed by the returning officer, the nomination papers are scrutinized by him. A nomination paper will be invalid if the identity of the proposer, the seconder, or the candidate is not established, or if they are not qualified voters, or if the candidate has not assented to the nomination, or if the deposit has not been made. The candidate whose nomination paper has

² Municipal Election Rules.

³ Sec. 16 (1).

⁴ Sec. 29 (b).

been objected to, is given an opportunity to rebut and disprove the objections, and the orders of the returning officer regarding the matter may be revised by the district magistrate, but the latter's decision in every case is final. A list of duly nominated candidates must be published at least 5 days before the election.

Withdrawals. If a candidate retires within 7 days of the date of nomination, his deposit money is refunded, but not otherwise unless he dies before election. A candidate who fails to get more than at $\frac{1}{8}$ of the total valid votes cast, forfeits his deposit. In case of others, it is returned after the publication of the election results.

Time & Place of the Election. The date of the election is between 1st and 10th of December (25th and 30th September in case of hill municipalities) as fixed by the board in consultation with the district magistrate. The hours and place also are decided by the board.

Voting. For each polling station the presiding and polling officers and clerks are appointed by the district magistrate. The presiding officer maintains order, and regulates the election procedure, *e. g.*, the number of voters to be admitted at a time. Only the candidates, their agents, election staff and the fixed number of voters at a time are allowed to remain within the polling station. Voting by proxy is not permitted. When a voter comes, first of all he has to be identified. This done, he is given a ballot paper which he has to mark by putting a cross against the name of the candidate he wants to vote for, and then he has to fold the ballot paper and cast it into the ballot box. If a voter is illiterate, his ballot paper will be marked for him by one of the clerks on being informed for which candidate the voter wishes to vote. In case of illiterate voters, therefore, the voting is practically open.

On a date fixed for the purpose, the votes are counted in the presence of candidates and their agents and results are announced with figures of votes obtained. In case of equality of votes between two candidates, lots are drawn as prescribed by the district magistrate.

Corrupt Practices and Election Offences. Under the municipal law undue influence, intimidation, bribery personation etc. are declared to be corrupt practices and candidates proved to be guilty of them may by the order of the courts be disqualified for membership upto a period of 5 years. Tampering with the electoral rolls or other electoral documents, identifying a voter without knowing him, obstructing the election

staff in their duty etc. are electoral offences punishable with a fine upto Rs. 500/-. ⁵

Election Petitions. The election of a person may be questioned on the ground that he indulged in the corrupt practices or that he was elected by the reason of improper rejection or admission of one or more votes, or that for any other reason he was not duly elected by a majority of lawful votes. It cannot be questioned merely on the ground of technical irregularities or mistakes which did not affect materially the issue of the election. ⁶

Election petitions must be presented within 15 days following the election by either any one of the unsuccessful candidates who claims to be elected in place of the person whose election is questioned or by ten or more of the voters of the constituency. ⁷

Election petitions are heard by the commissioner of the division within which the municipality concerned is situated. Government may, however, by rule appoint some other person or tribunal within the district for the purpose. The collector in every district is authorized to receive election petitions in respect of municipalities within the district. ⁸ If the election court finds that the election of the person challenged is invalid, it may declare either another candidate to be elected, or order fresh elections to be held. ⁹ In case it is found that extensive corrupt practices prevailed in connection with an election, the court may order the entire election proceedings (in respect of a single poll) including the nomination to be set aside, and fresh election proceedings to be instituted. The decision of the election court is final and no appeal is permitted to any other court on any question of law or fact, though the court itself may refer, during the hearing, any question of law to the high court and may review its own decision within one month on any point on the application of any person aggrieved. ¹⁰

⁵ Electoral rules No. 80.

⁶ Section 19.

⁷ Section 20.

⁸ Section 22.

⁹ Section 25.

¹⁰ Section 23. (e) and (f).

CHAPTER V

THE FUNCTIONS AND POWERS OF THE MUNICIPAL BOARDS

The U. P. Municipalities have received their functions and powers from the provincial legislature by the method of specific grant after the English model. This means that they have only those functions and powers which are expressly given to them by law and no others. Anything done in excess of their legal powers, however, reasonable or necessary it may be from other points of view, would be *ultra vires*.

The Acts giving powers to the municipalities are of two kinds, general and adoptive. The general acts apply to them automatically. The adoptive acts have to be adopted by a prescribed procedure before a particular municipality can obtain the powers they are intended to confer. The most important among the general acts is undoubtedly the U. P. Municipalities Act, 1916, but there are also a number of others, *e. g.*, the Cattle Trespass Act, 1871, the Northern India Ferries Act, 1878, the Hackney Carriages Act, 1879, the Vaccination Act, 1880, the Prevention of Cruelty to Animals Act, 1890, the Epidemic Diseases Act, 1897, the Prevention of Adulteration Act, 1912, the Local Authorities Loans Act, 1914, etc. A good example of an adoptive Act is the U. P. Primary Education Act, 1919, which permits the municipalities adopting it to introduce compulsory education in the whole or part of their area. In order to adopt it, a municipality has to petition the government according to a procedure prescribed in the Act, and when the petition is sanctioned, the powers under this Act become available to it.

The powers granted by the general Acts to the municipalities are, some of them, compulsory and others permissive. The Act distinguishes between them by the use of the words 'shall' and 'may' respectively. The obligatory powers must be exercised by the municipality, but the discretionary ones may or may not be exercised according to convenience and financial resources.

Thus under the U. P. Municipalities Act, 1916, making of 'reasonable provision' for lighting, watering, and cleansing of public streets, and places and drains; abating of nuisances; regulation of offensive and dangerous trades and callings; removal of undesirable and dangerous projections

from the streets ; removal of securing of dangerous buildings ; maintenance of cemeteries, crematoria and burning ghats for the disposal of the dead ; construction and maintenance of streets, culverts, markets, slaughter houses, privies, drains and drainage and sewerage works ; planting of trees on road sides and other public places ; water supply ; registration of births and deaths ; vaccination ; maintenance of hospitals, dispensaries and veterinary hospitals ; fire protection ; primary education ; management of municipal property, and submission of the reports and returns etc. required by the provincial government, are some of the obligatory functions of the municipal boards, ¹ while planning of building areas and acquisition of land for that ; construction and maintenance of parks, gardens, museums, lunatic asylums, travellers' rest houses, dairies, baths, bathing ghats, drinking fountains, wells, dams and other works of public utility ; reclaiming of unhealthy localities ; furthering of education by means other than primary schools ; taking of census and making of surveys ; affording of relief in time of local calamities ; confinement and destruction of stray dogs ; securing of suitable localities for offensive and dangerous trades ; maintenance of sewage farms and factories ; construction or subsidizing of means of transport ; construction and maintenance of electric power works, holding fairs and exhibitions ; promoting public health by measures other than those declared to be obligatory ; and doing generally of anything the expenditure on which is declared by the Government or the Commissioner to be an appropriate charge on municipal funds, ² are the more important of the discretionary or optional municipal functions. The municipalities may exercise these functions even outside the municipal limits with the Commissioner's sanction and the benefits of any municipal undertaking can be extended to areas outside the municipality. ³

The above lists of compulsory and discretionary functions merely mention in a broad way the principal subjects or matters to which the powers and duties of the municipalities relate. The details of these powers and duties are scattered all over the 300 and odd sections of the municipalities Act and indeed over many other acts too. There are hundreds of things which the municipalities can do or are entitled to get done in connection with public health alone. It is not possible to attempt here an exhaustive list of all the municipal powers. Broadly speaking,

¹ U. P. M. Act, 1916 Sec. 7.

² Mun. Act, Sec. 8.

³ Ibid Sec. 8 (2).

however, it may be said that they are clothed with the necessary legislative, financial, and administrative powers to carry out the above functions. Under the head legislative, comes their power to make regulations and bye-laws. Under the head financial, we may mention their power to impose and collect the taxes, fees etc. and to make the budget. Under the head administrative come so many powers—the power to appoint control and punish the municipal servants; to sanction contracts; to take decisions on hundreds of matters that crop up in connection with municipal administration; to require the members of public to do or refrain from doing numerous things for the sake of public safety, health, and convenience; to collect municipal dues and spend the proceeds; to institute suits and launch prosecutions; and lots of other things. Finally the boards have also electoral powers whereby they elect some of their officers like the Chairman and Vice-Chairmen, and form various committees.

The actual status of the boards in relation to these powers is that of subordinate agencies, that is to say, they exercise these powers subject to the control of the provincial government and the courts. This control itself, however, is defined by law, and it is from its statutory nature that the autonomy of the boards springs. The provincial government can control the exercise of their power by the municipal boards, but only in certain legally prescribed ways and not arbitrarily. So the result is that within a certain sphere, the local bodies are left to be their own masters more or less. The nature and extent of the external control over the boards is discussed in a following chapter.

CHAPTER VI.

THE INTERNAL ORGANIZATION OF THE MUNICIPAL BOARDS

The full municipal board with its honorary membership can meet only occasionally and for short times to transact business. Hence it can look after only the more important kinds of business directly, leaving out the rest to be managed by its subordinate agencies made up of individual officers or committees. The distribution of powers between the boards and their subordinate agencies, and their mutual relationship constitute the problem of the internal organization of the boards. From the point of view of the successful working of the local bodies, this problem is the most important, and an attempt is made below to explain the way in which it has been solved for the present under the U. P. Municipal Boards.

The Business Transacted by the Municipal Boards. The organization of the municipal board is complete when its chairman has been elected. Then it can meet and transact business.

Meetings and Quorum. The Act requires the municipal board to meet at least once a month.¹ In actual practice most boards, particularly those of bigger towns, have to meet once a fortnight or more often. It is not at all unusual for these boards to meet 40 times or even more during a year. The chairman may convene a meeting of the board whenever he thinks fit, and must do so upon a requisition of not less than 1/5 of the board's membership. The ordinary quorum for these meetings is 1/3 of the membership for the time being, but for transaction of business by a special resolution a quorum of 1/2 is required.² At adjourned meetings, requirements of quorum are waived.³ Unless the chairman decides otherwise, municipal meetings are open to the public. Certain officers of the government, *e. g.*, the Superintending Engineer Public Health Department, the Director and the Assistant Director of Public Health, the executive engineer, the inspector of schools and any other officers authorized for the purpose, may attend a meeting of the board and address it but they have no right to vote!⁴

¹ Sec. 86.

² Sec. 88 (1) & (2).

³ Sec. 88 (3).

⁴ Sec. 93.

The Chairman. The meetings of the board are presided over by the chairman or in his absence by the vice-chairman. If both of these be absent, one of the members may be voted to the chair.⁵ The chairman of the meeting has the usual powers belonging to presiding officers. It is his duty to maintain order, to decide all questions of procedure, to maintain relevancy in debate, to put questions, to take the vote, and to announce the result. Besides his ordinary vote he has also a casting one to break a tie. He can expel from the meeting any persons including members who may be guilty of disorderly conduct, by the use of force, if necessary.⁶

The Agenda. The agenda for the meeting is prepared and circulated in advance to the members by the secretary or the executive officer. The order in which business is usually taken up is as follows :—reading of the minutes of the last meeting, questions, consideration of the accounts of the last month, communications from the Government and their officers, reports of the committees, motions of which notice has been given, notice of motions proposed to be brought forward at the next meeting, appeals from the orders of committees or officers, and other items. The chairman has the power, however, to decide the order in which business shall be taken up and he can bring forward on the ground of urgency, any business which is not included in the agenda and of which no notice has been given.

Notice of Questions and Motions. Questions require a week's written notice addressed to the secretary. Motions require a similar notice addressed to the chairman, but in their case notice can be given at the previous meeting also. The chairman can disallow questions on the ground of their being argumentative, hypothetical or defamatory.

Procedure at the Meetings. Members are required to speak from their places and to address the chairman. No one can speak twice on any motion or amendment except the mover who has the right to reply. All questions are put through the chairman. Decision is by majority vote unless the Act requires a special majority for any specified matter. Voting is by show of hands.

The Resolutions and the Minute Book. The standard form of the board's decision on most questions is that of a resolution. Board's resolutions may be described to be of three kinds—ordinary, special, and extraordinary. An

⁵ Sec. 89.

⁶ Sec. 91.

ordinary resolution requires the ordinary quorum of $\frac{1}{3}$ and a simple majority of those present to pass it. Most of the business coming before the board is transacted through such resolutions. A special resolution requires a quorum of $\frac{1}{2}$ of the board's membership and a simple majority of these present to pass it. The more important matters coming before the board have to be decided by special resolutions. Instances of such matters are the passing of the budget, imposition of the taxes, appointment of the executive officer, secretary, engineer etc. Finally, the extraordinary resolutions are those which require a special majority of the total membership of the board to pass them. These resolutions are required for deciding the most important matters coming before the board, *e. g.*, passing of no-confidence motions against the chairman, or punishing or dismissing the executive officer, the secretary or certain other higher officers. It should be noted that the Act does not sanction the use of the term 'extraordinary resolutions' but since they are a distinct species of board's resolutions, this nomenclature may be coined to designate them.

The names of members present at a meeting, the proceedings held, and resolutions passed are recorded into a minute-book. These minutes are read at the next meeting and confirmed under the chairman's signature. Every resolution passed has to be published in local newspapers or if there are no such papers, it has to be put upon the municipal notice-board. This publication has to be done within 10 days of the passage of a resolution, and within the same period, copies of it are to be sent to the commissioner and the district magistrate.⁷ Ordinarily a resolution of the board cannot be modified within six months of its passage, but it may be modified by a clear majority of the board's entire membership after previous notice.⁸

The Nature of the Business Transacted by the Board. The business that must be transacted by the board direct is summarized in schedule I appended to the Municipal Act. Its transaction cannot be delegated to any subordinate agency.⁹ According to its subject matter, this business vesting in the board itself, may be classified as electoral, legislative, financial, and executive and administrative.

Electoral Business. The electoral functions of the board consist of the election of the chairman, the vice-chairman, the members and chairmen of the various committees, and co-option of outsiders to these committees.

⁷ Sec. 94.

⁸ Ibid.

⁹ Sec. 50 (e) and 112 (i) (a).

Legislative Business. The legislative work of the board consists of making of regulations and bye-laws. The distinction between a regulation and a bye-law is partly one of the procedure of making them, and partly of the kind of matters with which they deal. As regards the procedure of their enactment, for making a regulation a special resolution of the board, and except in some cases,¹⁰ a confirmation by the Commissioner or the Government is required. Bye-laws also are made by a special resolution of the board, but in their case pre-publication of the draft is necessary, and they do not go into force till they have been confirmed by the Government and published in the Gazette.¹¹ Thus the difference between the procedure of making a regulation and a bye-law is two fold, namely, (1) that in case of latter, publication is necessary both before and after they are formally enacted while in case of former no publication at any stage is needed, and (2) that the latter always require the Government's sanction, while the former in some cases do not. Secondly, regulations and bye-laws relate to different kinds of subject matter. The regulations generally relate to the internal relationships and the procedure of the board, its committees, and officials, while bye-laws seek to regulate the conduct of public outside and relate, broadly speaking, to matters of 'health, safety, and convenience' of the public,¹² e. g., buildings regulation, fire protection, scavenging streets, markets, sale of food, offensive trades, traffic regulation, sanitation, prevention of disease etc.

Making of regulations and bye-laws is in the nature of subordinate legislation by the board, and as such their power in these matters is neither exclusive nor independent. Regulations may be made for the boards by the Government too, relating to such matters as allowances to board's employees, security to be demanded from them, leave, gratuities, provident fund, contributions etc., and such regulations when made by the Government override those of the boards.¹³ The Government may also ask a board to make a bye-law on any subjects, and then the board must do so.¹⁴ Before confirming a regulation or bye-law, the Govt. or the Commissioner may make such changes in its form as they think fit, and they have also the power of rescinding a regulation or bye-law at any time even after confirming it.

¹⁰ Sec. 301 (1).

¹¹ Sec. 301 (2).

¹² Sec. 298 (1).

¹³ Sec. 297 (2).

¹⁴ Sec. 298 (1).

In order to be valid, board's regulations and bye-laws must be consistent with the Municipal Act and rules made under it. Indeed, they must not conflict with any law in force for the time being. They may be declared *ultra vires* by the courts on the ground of such a conflict. In England and U. S. A., local bye-laws or ordinance are declared void by the Courts also on the ground of vagueness, want of generality, unreasonableness, and undue restraint of trade, and our Indian Courts also adopt these standards in judging the validity or otherwise of a local enactment.

Financial Business. The financial business coming before the board consists of passing of the budget and the revised budget, making of reappropriations when necessary, and the imposition of taxes and determining other ways and means of financing expenditure.

Executive and Administrative Business. The executive and administrative business coming before the board is too numerous and diverse to admit of a convenient summarising, but a few more important instances of it are sanctioning of contracts above a specified value (Rs. 1,000 in case of city and Rs. 250 in case of non-city municipalities) or for which budget provision does not exist; appointment, punishment and dismissal of certain higher officers like the executive officer, secretary, engineer, accountant etc.; confirmation of appointments made by the chairman on salaries exceeding a specified amount per month (Rs. 250/- in case of city and Rs. 100 in case of non-city municipalities); determining the number and salaries of the staff needed; combining of offices; establishment of provident fund for the employees and grant of annuities and compassionate allowances to them; acquisition and transfer of property etc. etc.

Delegation of Powers by the Boards. Such is the business to which the boards themselves must attend. The rest, they can delegate to their officers and committees by regulation. The upper limits of such delegation are defined by the municipal Act,¹⁵ but no lower limits are laid down so that if a board does not like to do so, it may not make any delegation to anybody and may keep in its own hands all the powers except such as are statutorily vested in officers like the chairman, executive officer, and others. In practice, however, boards do have to make such delegation to lighten their own burden.

The delegation made by the board may be absolute or conditional. Where delegation is conditional, the board reserves to itself the right of revision and appeal within a

¹⁵ Sec. 50 (e) and 112 (1) (a).

specified period, but where it is absolute, the officer or committee to whom delegation is made can pass final orders. Once delegation is made, the board cannot interfere in the exercise of powers delegated except within the limits of conditions to which the delegation has been made subject *ab initio*.

Subordinate Agencies of the Board for the Transaction of Business. The subordinate agencies doing the business other than that transacted by the board itself, consist of individual officers and servants like the chairman, the executive officer, secretary and others, and of the committees. It is important to understand the powers of these agencies and their relationship to the board. These powers may be partly statutory and partly obtained from the board by delegation. We take first the individual officers and servants for discussion.

The Chairman. The powers and duties of the chairman as the presiding officer of the board, have been discussed already. He is also the head of the board's executive. In the latter capacity it is his duty to watch over the general and financial administration of the board and bring to its notice any defects therein.¹⁶ In the second place, the chairman has important powers of appointment and control of municipal employees. With the exception of those officers whose appointment etc. is vested in the board itself, the chairman is empowered to appoint, punish and dismiss all municipal employees drawing a monthly salary exceeding Rs. 30/- and Rs. 75/- respectively in case of non-city and city municipalities. Appointments on a monthly salary of Rs. 250/- or more in case of city and Rs. 100 or more in case of non-city municipalities, however, require confirmation by the board. Also, in case of dismissal, an employee has a right of appeal to the Government against the chairman's order.¹⁷ Appointments on monthly salaries lower than these mentioned above are vested in the executive officer, but in those municipalities where there is no executive officer, these appointments also are made by the chairman.¹⁸ The chairman can appoint and fix the salaries of the temporary staff needed in cases of emergency provided that in doing so he does not contravene any standing orders of

¹⁶ Sec. 51 (b).

¹⁷ Sec. 74.

¹⁸ Sec. 77 (2) however, permits the boards to vary by regulation these maxima and minima of monthly salaries with reference to the respective powers of the board, the chairman and the executive officer, because conditions in different municipalities vary greatly.

the board. ¹⁹ In the third place the chairman may receive additional powers from the board by delegation. ²⁰ Indeed, he is the residuary legatee to all those powers and functions of the board the exercise of which is not expressly vested in any other authority. In the fourth place, the chairman in virtue of his position as the head of the executive plays the leading part in the deliberations of the board. He is responsible for the preparation of the board's budget and its piloting through that body, and is expected to give the lead in respect of the decision of other matters too. Finally he is the channel of communication between the board and all outside bodies including the Government and the public.

The chairman may delegate to the vice-chairman any of his powers except those of presiding at board's meetings and supervising its administration, and to any of the servants of the board his powers of appointment and control over board's employees. Such delegation to the vice-chairman or to one of the board's servants may be made subject to such conditions and reservations as the chairman may think it fit to impose. ²¹

For the exercise of these powers the chairman is responsible to the board as well as the Government. He is responsible for executing all the lawful resolutions of the board, which are binding on him. He must arrange for the answering of such of the questions as may be put at the board's meeting by the members. It is his duty to submit to the board such returns, estimates, statements, copies of correspondence and other documents relating to the board's administration as may be demanded from him from time to time. ²² As we have seen the board can remove him from his position by passing a vote of no-confidence against him. It is the duty of the chairman to submit to the collector and commissioner also such statements, documents etc., as they may require, ²³ particularly the copies of resolutions passed and the annual administration report. The Government also can remove him from office on the ground of the habitual failure to perform his duties, ²⁴ after giving him an opportunity of explanation and defence.

The Executive Officer, Secretary, and the Various Departmental Heads. Other individual officers and servants of the

¹⁹ Sec. 70 (a).

²⁰ Sec. 50 (d).

²¹ Secs. 53 and 53-A.

²² Sec. 52.

²³ Sec. 50 (c).

²⁴ Sec. 48 (2).

board participating in the exercise of its powers and functions are the executive officer, the secretary, and the various departmental heads like the Engineer, the Medical Officer of Health, the Superintendent of Education etc. The powers of these may be partly statutory and partly obtained by delegation from the board or one of its committees, or chairman, or the executive officer. The details of the powers of these officers are discussed in a subsequent chapter. It is necessary, however, to say here a word about the general position of the Executive Officer. He is the head of the board's permanent servants, and as such the principal adviser and lieutenant of the chairman who is the political head of the board's executive. All the permanent servants of the board including the departmental heads are subordinate to the executive officer and he in his own turn is subordinate to the chairman whose orders descend down the rungs of the administrative ladder through this officer. The executive officer, however, has important statutory powers of his own regarding the appointment and control of the lower grade employees of the board and various administrative matters, and in the exercise of these he is to act in more or less an independent capacity.

THE COMMITTEES

Next we turn to the collective bodies, the various committees, doing the board's work.

Kinds of Committees. The committees of local bodies may be statutory and non-statutory or optional. The former are those whose constitution is laid down by law and the appointment of which is thus obligatory for the board. Under the U. P. Municipalities there are no statutory committees at present. As regards the non-statutory or optional committees, these may be standing, *i.e.*, appointed to function for a definite period at a time, or *ad hoc*. The latter are appointed for some special purpose having accomplished which, they go out of existence. There may also be joint committees, standing or otherwise, consisting of members from more than one local authority, and looking after some common interest of the constituent bodies.

The Standing Committees. The law leaves it to the municipal boards to create such numbers of these committees by regulation and gave them such powers as they think fit.²⁵ Their constitution also is left largely to the boards, the Act merely requiring that they shall be elected for a year by the board by the method of single transferable vote as in use in the provincial legislature. The number of members

²⁵ Municipal Act Sec. 104 (1) (a)

on any committee is left to the discretion of the boards. Co-option of outsiders by the board to these committees is permitted but the strength of the co-opted element must not exceed $\frac{1}{3}$ of the total membership of the committee. Chairman of these committees are appointed by the board, but if it fails to do so, the committee itself may appoint its chairman from among its own members.

Regarding the actual number of committees, the number of their members, the date of their constitution etc., things vary from board to board, and so do also the names and spheres of jurisdiction of these committees. Thus, Cawnpore Municipal Board has 11 committees and Benares eight, while the smaller boards may be content with 3 or 4 committees only. The Cawnpore committees cannot have more than 12 members each and are formed every January (or within one month of general election) while in Benares, 6 committees have 9 members a piece, one 6, and 1 only 3 and their election is held every April.

Powers and Duties. As mentioned above, the jurisdictional sphere of committees varies from board to board. A committee may be associated with the work of one whole department, or it may have under it more than one department, or finally it may be entrusted with the work relating to only a part or section of a department. Thus at Cawnpore there are finance, public works, road and pavement, building applications, public health, education, compulsory education, Town Improvement, Tax, Water Works, and Ganga Jal Sudhar Committees. Of these finance and water-works committees are departmental in nature. Education and compulsory education committees furnish the instances of parcelling out of the work of one department between two of them. The public works committee is also responsible for lighting arrangements, and the finance committee for nazul administration.

The board may delegate to the committees by regulation any of the powers except those which under section 111 (1) and schedule ²⁶ are exercisable by itself alone or reserved statutorily for the chairman, executive or the medical officer of health. This delegation may be final or conditional. ²⁷ In the latter case, the board may revise or hear appeals against committee decisions within a specified period. Except within conditions of the delegation, the board must not interfere with the committee's discretion. ²⁸ The board may call for any reports, returns, records etc. from the committees and the latter must comply.

²⁶ Sec. 112 (1).

²⁷ Sec. 112 (3).

²⁸ Sec. 112 (2).

In practice final delegation of powers to the committees is rare. The committee regulations invariably stipulate that the minutes of every committees proceedings shall be laid before the board for such orders as it may think it fit to pass upon them within terms of the delegation.

Though the actual powers of the committees differ from place to place, broadly speaking they have four classes of them. In the first place they are entrusted with the power of supervision and control of the work of the department under them, *e.g.*, inspection, examination of accounts, enforcement of rules etc. In the second place they may prepare business for the board, *e.g.*, preparation of annual estimates or framing of proposals concerning matters affecting their departments. Thirdly they may advise the board concerning all matters under their charge. Finally they may exercise certain miscellaneous executive powers, *e.g.*, sanctioning of departmental contracts within specified limits, executing of such contracts, hearing appeals, or occasionally as in case of education committee where the board has transferred by resolution the necessary authority, ²⁹ the power to make appointments etc. of the staff. To illustrate the points under discussion, we may give the example of the public works committee at Cawnpore. It is empowered to consider and frame proposals for expenditure of public works allotments under the budget, examine monthly accounts before their presentation to the board, determine the order in which works shall be carried out, sanction and execute contracts not exceeding Rs. 1,000 in value, call for estimates from the engineer, see to the maintenance of the measurement book, receive reports on works in progress, scrutinize completion certificates, see to the checking of bills, call for tenders, maintain a schedule of rates, look to the preparation of detailed plans and estimates and their observance, and make the lighting arrangements.

Joint Committees. Joint Committees are often constituted for looking after matters in which more than one local body is interested, *e.g.*, there is a Joint Octroi Committee of Municipal and Cantonment Boards at Cawnpore, and joint octroi and hackney carriages committees at Allahabad, made up of the representatives of the local municipal and cantonment board.

The Board and the Committees. The main purpose of the Committee organization is to lighten the burden of detailed work for the boards. Our boards are, however, rather niggardly in grant of powers to the committees. They are unwilling to relinquish the ultimate control of any matter

²⁹ Sec. 73.

whatever. The result of this is congestion of business before the boards, particularly of the larger towns. This means too frequent meetings and poor attendance at them. In 1938-9, *e.g.*, 13 boards (including Benares, Cawnpore, Lucknow, and Allahabad) held over 40 meetings in the year. The record figure was of Allahabad board which met 74 times. The report on Municipal Administration of that year says: 'No improvement (in attendance) can be effected until boards concern themselves more with matters of administrative policy and general direction than with minor matters of routine.....which they should leave to their officers and sub-committees empowered to deal with them. It was again noticed that where the number of meetings was less, attendance was greater.' The boards, therefore, are not making full use of the machinery of committees for the despatch of work.

Defects of the Board's Internal Organization. The working of the municipal boards during the last 30 years has revealed a number of defects in their administrative machinery. In the first place, vesting of executive power in the hands of multiple bodies like the board or the committees has often made for delay, obstruction, irresponsible action, and nepotism. In the second place, the parcelling out of such power among a number of bodies and officers, has resulted in considerable friction and weakness of the executive. Lastly, the chairman who is the most important single element in the board's executive machinery has frequently been subjected to the threat of removal by no-confidence motions, and his position has thus been rendered weak and unstable. A weak and divided executives has naturally resulted in inefficient administration.

CHAPTER VII

THE MUNICIPAL SERVICES

Government Officers in Board's Service. The municipal boards do not have full control over all their servants. They have to staff some of their services with officials borrowed from the government. At present the medical officers of health are the only municipal functionaries taken from government service. In matters of appointment, posting, promotion and punishment these officers are entirely independent of the board's control. The salary of the medical officers of health is paid by the government. The board's powers in respect of them are firstly that it can demand their transfer by a special resolution giving sufficient reasons, secondly that casual leave is granted to them by the chairman, and thirdly that the board can complain against them to the provincial government. Disciplinary action on such complaint can, however, be taken by the director of public health only.

The municipal Act provides for the lending or transferring of other government servants also to the board's service and *vice versa*.¹ In case of these, the board has to contribute towards their pension, leave allowance etc. It cannot dispense with their services except with the assent of the Government. A board's servant lent to the government cannot be dismissed or removed except after six months' notice to the government.

Government Control over Municipal Services. Over the rest of their servants, the boards have full powers in matters of appointment, control, punishment etc., subject to the control of the government in four things. Firstly the government can lay down qualifications for the posts requiring technical knowledge or professional skill. Among others, the posts of executive officers, secretaries, engineers, overseers, technical staff engaged in water and electricity supply, sanitary inspectors, veterinary staff, teachers etc. are of this nature. Secondly the government may prescribe the salaries or other conditions of service as in case of sanitary inspectors, or may require that these shall be fixed with approval of the government as in case of executive officers, secretaries etc. Thirdly the government have the power to hear appeals against board's orders punishing or dismissing employees on a monthly salary exceeding a

¹ Sec. 78 (i).

prescribed amount (Rs. 30 and Rs. 75 respectively in case of non-city and city municipality). ² Lastly appointments to certain specified posts (e.g. to those of executive officers, secretaries, engineers etc.) require the approval of government.

Appointment. Subject to the above conditions, the boards have the power to appoint their own officers. In actual practice, the board itself appoints only the higher officers whose appointment is statutorily vested in it. These officers are the executive officer, the secretary, the engineer, the water works engineer and superintendent, sub-overseer etc. The power to appoint other officials is divided between the chairman and the executive officer or the heads of various departments. The Act says that all officers on a salary exceeding Rs. 30 in case of non-city municipalities and Rs. 75 in case of a city municipality ³ shall be appointed by the chairman and those with salaries smaller than these, by the executive officers or such departmental heads as may be empowered to do so. Appointments above a specified monthly salary (Rs. 100 in case of non-city and Rs. 250 in case of city municipalities) though made by the chairman have to be confirmed by the board. ⁴ The power to appoint education employees may be vested in the education committee by a resolution of the board. ⁵ The medical officer of health may take the place of the executive officer in the matter of appointing the lower employees of his own department. ⁶

Obligatory and non-Obligatory Posts. The Act prescribes certain posts which every municipality must fill, e.g., municipalities with an annual income of Rs. 50,000 or more must have an executive officer, and others a secretary. If a board does not fill up one of the obligatory posts within a reasonable time, the government have the right of action in default, i.e., they themselves can make an appointment to the post concerned. ⁷

The non-obligatory posts may be created and abolished by the board as it thinks necessary. It can also fix the salaries for them.

Punishment and Dismissal. The authority that has the power to appoint, can also punish and dismiss an official. Thus, the higher officers appointed by the board can be punished and dismissed by it following a special procedure,

² Secs. 58 and 74.

³ These limits may be varied by the board's regulation.

⁴ Sec. 74.

⁵ Sec. 73.

⁶ Sec. 60-A (d).

⁷ Sec. 65.

i.e., by a special resolution passed with a $\frac{2}{3}$ majority of its entire membership. The officers punished have the right of appeal to the government within 30 days of the receipt of the punishment order. This procedure is intended to afford protection to the higher officers whose duties may bring them in conflict with the members or the public.

The lower officials of the board can be punished and dismissed by the chairman, or the executive officer or the secretary, or the head of the department concerned as the case may be. Those punished by the order of the executive officer or some departmental head have a right of appeal to the chairman, while those punished by the chairman can appeal to the government, provided the punishment awarded is of a severe nature, e. g., dismissal.

Combination of Offices. The duties of two or more obligatory posts cannot be combined in the hands of the same officer. In other cases, such combination may be made at the board's discretion.

Promotion, Leave, and Superannuation etc. Promotion of municipal officials is governed by seniority and the grade or scale of pay that they have, but a number of other factors also count. Political influence may push a man up leaving his senior or more qualified rivals behind. Leave, allowances etc. are regulated by the fundamental rules applicable to government servants of corresponding status. As for superannuation arrangements, municipal employees on monthly salaries of Rs. 10 or more are entitled to contribute to a provident fund at a fixed rate, the municipality contributing not more than half of the employee's contribution. The usual rate of contribution for the employees and the board are one anna and half anna per rupee of the salary respectively. Employees excluded from the benefit of the provident fund, may be allowed a gratuity at the time of the retirement.

Some More Important Municipal Officers. The executive officer, the secretary, and the head of the various departments like the engineer, the medical officer of health, the water-works engineer, the tax and the octroi superintendents, the education superintendent etc. are the more important of the municipal officers. Let us notice briefly what the powers and duties of these are.

The Executive Officer. We have said before that the executive officer is the head of the permanent services of the municipal boards, and that other municipal officials including the heads of the various departments, are subordinate to him. It is obligatory for all municipal boards with

an annual income of Rs. 50,000 or more to employ an executive officer.

The qualifications for this post have been prescribed by the government. A candidate for it must have the ability to read and write both the vernaculars of the province; he must hold a university degree or an engineering degree or diploma of an institution recognized for the purpose, or must have held responsible charge of public works for at least 5 years; he must not be more than 32 years of age or if overage, must have officiated for 2 years as executive officer or secretary; he must be a permanent resident of these provinces and medically fit for outdoor duties; and he must not have any relations on the board as members at the time of his appointment. The method of his appointment has already been discussed. The executive officer's appointment, and the salary given to him need the approval of the government. The procedure for his punishment and dismissal have been described above. There is no bar to the appointment of a government servant to this post.

As the head of the board's permanent services, it is the duty of the executive officer to secure the co-ordination of the work of all the municipal departments. He can give orders to their several heads. In the second place, he is the principal adviser and lieutenant of the chairman in all matters of administration. The chairman's orders to officials lower down descend through him. In the third place he has the statutory power to appoint and control officials on a monthly salary of Rs. 75 (or Rs. 30 in case of non-city municipalities) or below. In the third place he has important duties in relation to municipal finance and accounts. He must see to the timely preparation of the budget and to its due observance when it is passed. He must keep an eye on the collection of municipal revenues and their expenditure. He must satisfy himself that every proposed payment is admissible and proper. He must ensure that the account-books are duly maintained and that the various rules of internal check are in constant operation. He must take steps for the recovery of arrears, and deal suitably with the defaulters. In the fourth place, he can issue or withhold the various licenses (except those for markets, slaughter-houses and hackney carriages). In the fifth place he has a long list of administrative powers given to him statutorily.⁸ These relate to the giving and receiving the various kinds of notices, making remissions and refunds, receiving applications and objections, presenting bills for municipal dues, adopting coercive measures for recovery of

⁸ See schedule II to the Act.

arrears, requiring persons to do or refrain from doing various things connected with matters of public safety, health and convenience, calling for information, making of exemptions etc. etc. More powers may be delegated to him by the board or the chairman, and he may also delegate his powers to one of his subordinates with the sanction of the chairman. In the fifth place, he has to spend a good deal of his time in outdoor inspection of municipal works and institutions and much of the efficiency of municipal administration depends upon his vigilance in this matter. Finally, he has also to be present at the meetings of the board to help the chairman with facts and figures. He may be called upon to speak and explain things to the board. He must supply to the board and its committees, such figures, statements, documents or records as they may demand from time to time.

In respect of his statutory powers, the orders of the executive officer are final except in certain matters mentioned as appealable in schedule II of the Act, or by some bye-law.⁹

The Secretary. Municipalities which have no executive officer have to appoint one or more secretaries. The qualifications and the method of appointment and control etc. for the secretaries are the same as for the executive officer except that his appeal from orders of punishment or dismissal is made to the commissioner instead of the government. With the sanction of the government, municipal boards with executive officers also may appoint a secretary to assist him.¹⁰

The main difference between the positions of a secretary and an executive officer is that the former unlike the latter has no statutory powers vested in him, though in practice, he may receive from the board and the chairman by delegation the identical powers. The consequence of this is, that the powers of the secretary, may all of them be made appealable to the delegating authority. Where there is a secretary in addition to the executive officer, he usually takes over the latter's duties relating to the supervision of municipal finance and accounts.

The Municipal Engineer. The engineer is the head of the board's public works department. The qualifications for this post also are prescribed by the government, and the method of appointment, punishment etc. is the same as for the executive officers. Only the larger municipalities appoint a fully qualified engineer, the rest contenting themselves with overseers or sub-overseers.

⁹ Section 61.

¹⁰ Sections 66 to 69.

The engineer is responsible for the construction and maintenance of all the works of the board, except those whose construction, on account of the higher technical skill required or big costs involved, may have to be entrusted the public works or public health engineering department of the government. He prepares the plans and estimates of the works entrusted to him for construction. He has to inspect them while under construction, and has to see to the proper maintenance of the measurement book. The contractor's bills have to be scrutinized and passed by him, and he must issue a completion certificate before the final payment for any work can be made. He has to prepare the annual repairs programme and see to its being carried out. Occasionally, arboriculture, dak bungalows, and nazul also are entrusted to his care.

The Medical Officer of Health. Every municipal board with an annual income of Rs. 5,000 or more, unless exempted by the government, must employ a Medical Officer of Health. Originally it was intended to make the appointment etc. of the Medical Officer of Health subject to the same procedure as is prescribed for the executive officer, but later the post was provincialized. At present the medical officers of health are the servants of the government belonging to the U. P. Public Health Service. The salaries of these officers are paid by the government, but the board is responsible for providing them office accommodation and establishment, and may grant them a conveyance allowance with the sanction of the commissioner and the director of Public Health. Only the 27 larger municipalities have Medical Officers of Health and the rest employ sanitary or chief sanitary inspectors to look after their health activities.

The principal duties of the M. O. H. relate to the general supervision of sanitation in the municipality, control of epidemics, making of sanitary inspections, advising the board in all matters of public health, supervision of vaccination, collection of vital statistics, inspection of food-stuffs and seizure and destruction (if empowered by the board) of such of them as are unfit for human consumption, analysis of the municipal water supply, inspection of building sites and plans, health inspection of schools, hygiene publicity work etc.

Subject to the sanction of the government and with the written concurrence of the executive officer, the M. O. H. may also exercise the following powers, namely, grant of permits or licenses in connection with drains, privies, scavenging, offensive trades, and prevention of disease generally. The executive officer's powers to give permissions,

issue notices and ordering of doing or not doing of various things connected with health and sanitation such as scavenging, drainage, water-supply, housing accommodation etc. may be transferred to him. He may also exercise the powers of the executive officer relating to the employment and control of the staff of his own department.

Like the executive officer, he also may be called upon to attend and speak at the board's meetings explaining matters under his charge. It is his duty to supply to the board such information about health matters as it may demand from him.

The Accountant. The municipal accountant is subject to the same rules of appointment and control as the executive officer, and a scheme is a foot to provincialise his post also. He is the head of the board's accounts department and as such his principal duty is to supervise the keeping of municipal accounts. He has to maintain the cash book, send money to the treasury at prescribed intervals, scrutinized bills and recommend their payment, and look to hundreds of similar other matters. He is the principal assistant of the executive officer in the preparation of the budget and regulation of expenditure in accordance with its provisions. His is one of the key-posts under the municipality, and on the proper discharge of its duties, depends the sound financial administration of the board. His duties may often bring him in conflict with his masters, and so it is essential to secure for him a reasonably independent position.

The Tax and the Octroi Superintendents. These are the respective heads of their department and their duty relates to the assessment and collection of the taxes and dues under their charge. The tax superintendent assesses the house and other taxes, and undertakes the quinquennial revision of the assessment of the various taxes on the annual value of houses and lands. The Octroi Superintendent makes octroi assessments in cases sent to him from the barriers and is responsible for the maintenance of certain octroi account-books and for the checking and despatch of money collected at the barriers.

Other Principal Officers. The other municipal officers of note are the water-works engineer, the education superintendent, the veterinary officer, the legal adviser, the superintendent of nazul and municipal estates etc. Their duties are clear from their respective designations.

CHAPTER VIII

PROVINCIAL CONTROL OVER MUNICIPAL BOARDS

Reasons for Central Control. The municipalities and other local bodies though enjoying a certain degree of autonomy are really subordinate authorities in relation to the provincial government. The latter supervise and control them in a variety of ways. This is so not only in India but also in the western countries including England.

The reasons for central control over local bodies are many. In the first place the functions that are entrusted to them, have in most cases national importance also so that the central government must have power to see that they are properly discharged. Thus no central government can be indifferent to such local functions as primary education, or public health. Mistakes in these may have nation-wide repercussion. In the second place, the local bodies cannot command the same degree of technical skill and experience as the central government, because the local officials are less highly paid and therefore less highly qualified than those of the central government. The latter, therefore, can inspect and criticise local administration from the higher technical point of view and can suggest reforms and improvements where needed. They can bring to the notice of particular local bodies improved methods of administration and management successfully tried elsewhere. Lastly, the central government are ultimately responsible for the financial solvency of the local bodies. They cannot leave a local body threatened with bankruptcy to its own fate, because that would mean the cessation of certain vital services like water-supply and cleansing in its area. If the central government are to be responsible for the financial soundness of local bodies, they must have the power to exercise some financial control to prevent mismanagement. The central government also give grants-in-aid to the local bodies to enable them to undertake the essential services, and they must have the power to see that the grants are properly and usefully utilized. That is why local bodies must be subject to the control of higher authorities.

Principal Channels of Provincial Control in the U. P. As we have seen, the constitution and powers of the municipalities and other local bodies in U. P. are determined by laws passed by the provincial legislature. The application of these laws is in the hands of the executive government of

the province, while the interpretation of these laws is ultimately in the hands of the courts. Thus all the three branches of the provincial government—legislative, executive and judicial, participate in the control over local bodies. The occasions for the interference of the legislature and the judiciary are, however, few and far between. The legislature interferes only when the municipal law has to be changed and that is not often. The courts come in only when some transaction of local bodies is challenged before them on legal grounds. It is the executive government only that has to deal with the local bodies continuously in their day-to-day administration. Accordingly, it is to the control exercised by the provincial executive government that attention has primarily to be directed.

Control over Municipal Personnel. The control of the provincial government, extends both to municipal personnel and actions. As regards the control over personnel, the government have the power to remove the members and the chairman from their respective positions for neglect of duty or abuse of power. When the board as a whole is guilty of mismanagement, it can be dissolved or superseded. Dissolution is a less drastic step than supersession. It means the cutting short of the life of the guilty board and ordering fresh elections. It is thus an appeal to the electorate to return a better board than the one dissolved. Supersession, on the other hand, means the scrapping of the machinery of the board altogether for a specified time, and the substitution for it of a new agency consisting of a single person or several of them, official or non-official, appointed by the government, to exercise its powers and perform its duties. Removal, dissolution and supersession are all of them penal measures and the person or persons against whom they are employed are given an opportunity of explanation and defence before they are penalized to. This is the negative aspect of government control over local personnel. Positively, the government nominate a specified number of members to each board.

Control over Municipal Actions. Control over municipal actions is exercised through (a) rule-making, (b) the financial channel, (c) the administrative channel and (d) the judicial channel.

Control through Rule-making. The municipal act gives to the government a very wide rule-making power in respect of its application and enforcement. There are no fewer than 56 classes of matters grouped under five sections¹ of the Act in respect of which the government may make rules.

¹ Sections 29, 95, 127, 153, and 235.

CHAPTER VIII

PROVINCIAL CONTROL OVER MUNICIPAL BOARDS

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Control through Rule-making. The municipal act gives to the government a very wide rule-making power in respect of its application and enforcement. There are no fewer than 36 classes of matters grouped under five sections¹ of the Act in respect of which the government may make rules.

¹ Sections 29, 95, 127, 153, and 235.

Among other things these matters include the determination of property and tax-paying qualifications of municipal voters and candidates; preparation and revision of electoral rolls; nomination and election; preparation of plans and estimates of works, their sanction and agency of execution; contracts; account-keeping by the boards; the preparation and passing of the budget; management of municipal funds and property; administration of the taxes; construction and maintenance of water works and so forth. This list of matters concerning which the government may make rules is illustrative rather than exhaustive. In fact the rule-making power of the government is all pervasive. The Act authorizes them to make rules "generally for the guidance of a board.....in any matter connected with the carrying out of the provisions of this or any other enactment relating to the municipalities. ²" The other acts referred to are numerous, *e. g.*, the cattle Trespass Act, 1871, the Hackney Carriages Act, 1879, the Vaccination Act, 1880, Prevention of Cruelty to Animals Act, 1890, U. P. Prevention of Adulteration Act, 1912, Local Authorities Loans Act, 1914, Primary Education Act, 1919, etc., some of the Acts are adoptive, *i. e.*, their application to a particular municipality depends upon a notification issued by the government. By means of its rule-making power and the power to apply or not to apply certain Acts to particular areas, the government can amplify or restrict the powers of the boards in several ways.

The government have also very important powers regarding the area and the constitution of the municipalities. They can declare any local area to be a municipality, may fix and vary its boundaries, may confer on it the status of a city municipality, may fix the number of its members, may extend the principle of communal representation to it or no, and may abolish it as municipality altogether by a notification. ³

Control through the Financial Channel. In the first place the government may require that the budget of the indebted boards shall be subject to its sanction. ⁴ Secondly the imposition of taxes requires government's sanction as also their alteration, or abolition. The government can also ask the boards to alter or modify any of their taxation proposals or to remove any defects from the taxes. It may suspend, abolish or reduce a tax, or exempt persons or classes of persons from its operation. ⁵ It may empower one of its

² Section 296 (2) b.

³ Section 3, 9 and 11.

⁴ Section 102.

⁵ Section 133-137.

officers to hear appeals against assessments.⁶ Thirdly, borrowing by the local bodies, is subject to the sanction and control of the government. Finally, the government can call upon the boards to find money for certain purposes they may consider to be necessary. Thus, special police may be deputed at fairs etc., or emergency works may be executed within the jurisdictional area of the board and the latter may be required to pay for them.⁷

Control through the Administrative Channel. The control through the administrative channel is so wide and diverse that it is necessary to distinguish among the various items of it. Briefly speaking these items are the right to information; power of sanction, inspection and of action in default; control over the board's establishment; and the right to suspend board's resolutions.

The Right to Information. The government, and its officers like the commissioner and the collector are empowered to demand from the boards any books, documents, statements, accounts, or reports relating to their affairs.⁸ Copies of every resolution of the board have to be forwarded to the district magistrate and the commissioner within 10 days of its passage.⁹

The Power of Sanction. The sanction of the provincial government or the commissioner is necessary to give validity to certain types of the board's actions and resolutions, e.g., grant of remuneration or allowance to members (Sec. 37), institution of suits against members or servants for compensation for loss (Sec. 81), grant of annuities or compassionate allowances to employees (Sec. 79), imposition of taxes (Sec. 133), acquisition of land or construction of works outside municipal limits (Sec. 120-2) lease or sale of nazul lands, appointment of certain higher officers (Secs. 57, 59 and 68), and the making of the regulations and bye-laws. In regard to public works, the sanction of plans and estimates by the government or the Board of Public Health is necessary according as the work is an ordinary or health work, when its cost exceeds Rs. 10,000 and is met from a loan or grant.¹⁰ Board's resolutions on numerous other matters also require higher sanction. The above list is only illustrative of the general nature of such matters.

Power of Inspection. The government can inspect through their officers any property, works, and institutions wholly

⁶ Section 160 (1).

⁷ Section 36.

⁸ Section 32 (c).

⁹ Section 94 (4).

¹⁰ Public works rule No. 2 (1), M. M., Part II, p. 284.

or partly under municipal management and control. The commissioner and the collector have a general power of inspection over all the branches of the board's activity, but since they are administrative officers and cannot go into matters of a technical character relating to the various departments of the board's administration, the heads of the various provincial departments like the director of public health, the director of public instruction, the superintending engineer of public health department etc. and their principal subordinates have the power to inspect the appropriate branches of the board's administration. The purpose of such inspection is to discover any shortcomings and defects in board's administration and to suggest remedies.

Action in Default. Where a board is guilty of a default in discharge of a legal duty, the government can secure its performance through the agency of their own officers and ask the board to pay the cost.¹¹ In some cases the time limit after which the government may act in default is statutorily prescribed, e.g., when the board fails to elect its chairman till after a week of the date prescribed under section 44, the government nominate him. In other cases, the government, before taking action, draw the board's attention to the default and ask it to make it good within a given time. Should the default still continue after the expiry of the given time, the government are free to act.¹²

Suspension of the Board's Resolution. The commissioner and the collector are empowered to prohibit the execution of any order or resolution of the board or its committees if, in their opinion, it is 'of a nature to cause or tend to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human, life, health or safety, or a riot or affray.'¹³ Such an order with the statement of its reasons has immediately to be sent to the government who may endorse, modify or rescind it.¹⁴

Power over Board's Establishment or Services. These powers of the government have been discussed in the chapter on municipal services.

Control Through the Judicial Channel. The judicial control of the government over the boards takes two forms. In the first place the government or their officers have the power to hear appeals against the board's decisions. These appeals may be brought by members of the public aggrieved

¹¹ Section 35.

¹² Section 35 (1) & (2).

¹³ Section 34 (1).

¹⁴ Section 34 (2).

by the board's decisions in the matter of assessment of taxes, buildings regulation, regulation of private streets, refusal of licenses, regulation of offensive trades, declaration of buildings as unfit for human habitation, regulation of burial grounds etc. As we have seen, board's servants of certain classes may also appeal to the government against orders of removal or dismissal. In the second place, the government have the power to decide disputes between two or more local authorities or between a board and its committees or other subordinate agencies. The decision of the government (or its officers empowered to decide the issues) is final in all these cases, and no appeal lies to any court whatever.

The control exercised by the government through the judicial channel must be distinguished from the judicial control exercised by the courts proper. Briefly speaking the position is this that the courts have the general power to pronounce upon any disputed point of local law or to decide the validity of any local act, decision, or transaction unless their jurisdiction has specially been barred from a given matter or group of matters. In respect of all the matters noted in the previous paragraph, the ultimate power of decision has been vested in the executive government and its officers, and the jurisdiction of the courts has been barred out. In these matters, therefore, the government have what is called 'administrative jurisdiction.' The reason for withdrawing these matters from the purview of the courts is that their proper decision requires a familiarity with the needs and exigencies of administrative practice which is not commonly found among the judges of the ordinary courts.

The Agency of the Exercise of the Provincial Control. There are many agencies through which the provincial control over the local bodies is exercised. In the first place the various technical departments of the government exercise direct control over the related activities of the boards. Thus the education department controls their educational activities and the public health, engineering, medical, and veterinary departments, their activities in these fields. These departments make use of their own officers like the inspectors of schools, assistant directors of public health, superintending engineers, civil surgeons, etc. to inspect and report upon appropriate branches the board's administration. When the control of the technical branches of the board's administration has thus been provided for, there still remains a large residue of their activity embracing general administration and finance over which the control is vested in the provincial department of local self-government. Unlike other departments supervising the various branches of the board's

activity, this department has no field agency of its own. It has no officers of its own stationed in the different or of the province like the education or the public health departments. The department of Local self-government, therefore, makes use of the agency of the commissioners and the collectors to exercise its control over local bodies. The collectors and the commissioners are, however, officers of the general administration and have no special training for the supervision of local administration. Also, being busy officers of the provincial government, they do not have much time for local work. For these reasons, it has been demanded that this work should be taken away from these officers and vested directly in the local self-government department which should create for its performance a field agency or inspectorate of its own.

CHAPTER IX

MUNICIPAL FINANCE

Sources of Municipal Revenue. The sources of municipal revenues under the prescribed budgetary heads are (1) municipal rates and taxes, (2) income from property and powers other than taxation, (3) grants-in-aid from government or other sources, and (4) extraordinary and debt. A more scientific classification of the sources of municipal income would, however, be under the following heads, namely, (1) taxes, (2) rates, (3) fees, (4) income from municipal property and domain, (5) grants-in-aid and (6) miscellaneous.

The Distinction between Taxes, Rates and Fees. Some of these sources of municipal revenue are quite self-explanatory but regarding others a confusion of meanings often arises. This is specially so in case of the terms 'taxes' and 'rates' which are often used as synonyms in common parlance though this is inaccurate.

A tax properly speaking is a compulsory impost without any reference to particular services or benefits received by particular payers. The proceeds of a tax are of course spent on objects of common benefit, but there is no direct connection between what one contributes and receives in return. The tax on houses and lands, for example, is a tax in this sense. A rate, on the other hand, is a payment in return of and in proportion to a direct benefit received by the payer. In case of taxes the basis of payment is the citizen's ability to pay; in case of rates it is the amount of benefit or value of the service, which he receives. There are hardly any genuine rates in force under municipalities but perhaps the nearest approach to them is the so-called conservancy tax which is a payment for the cleansing of latrines and privies. The payment we make for our electricity consumption would be a municipal rate if the electric works were municipal. The so-called water tax too approaches a rate very nearly but is not quite so, because a house owner has to pay it if the annual value of his house is above a specified sum even if he has no pipe connection and does not get any water.

A fee also, in many cases, is a payment for a benefit received, but the difference between it and a rate is that the latter tends to be almost a full payment for the service received, while the latter generally is only a small and partial contribution towards the cost of the benefit conferred.

School's fees, *e. g.*, seldom represent the full cost of the schooling of a child. But fees are of many kinds and are imposed with a variety of objects. In some cases their object is not so much revenue, as the regulation and control of some trade or activity, *e. g.*, in case of license fees required of vendors of various articles of food or drink. Sometimes the object of fees may be to discourage or penalize some trade or activity which though not unlawful is detrimental to the health, convenience, or morals of the community.

MUNICIPAL TAXES

The taxes permitted under the U. P. Municipalities Act, 1916, are the octroi, the terminal tax, the terminal toll, the tax on houses and lands, the water tax, the tax on professions and trades, the tax on circumstance and property, conservancy taxes, taxes on animals and vehicles, tolls on roads and ferries, the lake frontage and boat taxes, lighting rate etc. We give below a brief description of these.

The Octroi. The octroi or the *chungi* is one of the oldest municipal taxes in India. In its present form it may be described as a tax on articles of local consumption brought into the municipality from outside. Accordingly, the octroi is not levied on exports, and a refund is given in case of goods which have been brought within municipal limits, but are subsequently exported.

Subject to certain exceptions octroi is levied on following classes of articles, namely, (1) articles of food and drink for men or animals, (2) animals for slaughter, (3) articles used for lighting, fuel and washing, (4) building and furnishing articles like stone, wood, brick, glass etc., (5) chemicals, drugs, spices, gums, perfumery, dyeing and tanning materials, (6) tobacco, (7) piece goods and other textiles, apparel, leather and articles made of it and rubber, guttapercha etc., and (8) metals and articles made thereof. ¹

The octroi is not levied on articles of following kinds, namely, (1) those subject to customs or excise duty, *e. g.*, salt, opium, mineral oil etc.; (2) precious articles like gold, silver, jewellery, precious stones; (3) goods belonging to government, or meant for government use, supplies for troops, articles for manufacture in jail or goods belonging to the municipality; (4) Mahua, gur or shira for manufacture of country liquors in distilleries; (5) personal and household effects of travellers or persons come to reside in the municipality; (6) postal parcels; (7) head-loads of cowdung, fuel, grass etc.; (8) arms; (9) machinery and its component parts (but not tools); (10) coal; (11) carriages and vehicles; (12) typewriters, sewing

¹ Municipal Accounts Code Rule No. 13.

machines; and (13) raw materials imported by government technical or industrial schools.

Subject to these limitations, every board may prepare its own schedules of articles and rates for octroi. The rates charged are based on weight, or value, or per article or head. The board may add to the list of exemptions, but cannot curtail it.

The octroi is levied at octroi barriers situated along principal routes giving access to the city. As goods arrive, they are stopped, a calculation of duty is made by the barrier clerk, and when it is paid, they may pass. In some cases, however, goods have to be taken to the central barrier for assessment and payment of duty.²

If the goods are subsequently exported, an application for refund has to be made according to the prescribed procedure.

At present the octroi is in force in 45 municipalities in the U. P. and its yield in 1940-41 was Rs. 42'49 lakh out of the total municipal income of 196'67 lakhs of rupees.

Criticism of Octroi. Octroi as a local tax has been subjected to much criticism. "In my judgment," says Sir Josia Stamp "both theoretically and on the result of experience, no country can be progressive that relies to any extent upon octroi which has nearly every vice." In the first place, the octroi owing to the necessity of entrusting large discretionary powers to a subordinate and low paid agency, provides constant opportunities for fraud, corruption, delay and oppression. Secondly it is expensive to collect and hence wasteful. Thirdly in spite of refunds, it does constitute a burden on through trade. Fourthly, it is levied on necessities of life and so it does not proportion the burden of the payment to the ability of the payer. Fifthly its incidence is uncertain, and is generally shifted. Lastly it is defective from the educative point of view, because its burden is not felt by the ultimate payers.

On account of these defects, the U. P. Municipal Taxation Committee, 1908, recommended the abolition of octroi and the substitution for it of a light terminal tax supplemented by direct taxation which was ultimately to replace it. The government accepted the policy of the gradual abolition of octroi and some municipalities even abolished it, but many of them reimposed it subsequently. As noted above more than half of the municipalities have it in force, and though the declared policy of the government is still for its abolition, the prospects of its disappearance are extremely uncertain.

² Municipal Account Code Rules 144-146.

The Indian Taxation Enquiry Committee, 1925, also condemned it in its present form and desired either its replacement by direct taxation or at least its improvement in a number of particulars.

The tough life that octroi seems to possess is not without reason. It has certain advantages too in its favour. In the first place, it is a productive tax and its yield increases with the prosperity of the town. In the second place, being a very old tax, it is familiar to the people. Lastly, it is paid in small amounts and its payment is generally not felt to be a burden.

The real difficulty in its abolition is that the municipalities do not find any other feasible source of revenue with which to replace it. The increase in direct taxation to make good the loss consequent on its abolition would have to be very considerable and it would be intensely unpopular. So long, therefore, as the government do not compensate the municipalities by adequate grants-in-aid to enable them to forego the octroi income, it is unlikely that it will be abolished.

The Terminal Tax. The terminal tax is a substitute for octroi and was recommended as such by the U. P. Municipal Taxation Committee, 1908. It differs from the octroi in the following respects, namely, (1) that it is lighter than octroi, (2) that under it no refunds are allowed in case of re-export, (3) that it is usually collected in arrangement with the railway authorities at the time of the delivery of the goods to the importer, the railway being paid a small commission (usually 4 to 5 per cent) for its labour, and (4) that though primarily it is a tax on imports, it is allowed to be levied on exports also in some cases, *e. g.*, on oil and cotton seeds at Cawnpore. In short the terminal tax is a tax on through trade and not merely an impost on articles of local consumption like octroi. The octroi and the terminal tax cannot be levied simultaneously.

Under the Government of India Act, 1935, terminal taxes on passengers and goods carried by railways or air have become a federal source of revenue. Terminal taxes, therefore, cannot now be levied in any new municipality. Where, however, this tax was in force before 1935, it may continue to exist till the federal legislature decides otherwise. Even in these places, it cannot be increased in rate or scope, though of course it can be reduced or abolished.

At present the tax is in force in 20 municipalities and its yield in 1940-41 was 30.54 lakhs.

The Terminal Toll. The Toll is usually a supplement of the terminal tax and is intended to tax the goods arriving by road or water-ways. If the terminal tax were imposed in a place without the toll, there would be a diversion of goods traffic to the roads and the railways would lose.

The terminal toll in its collection arrangements resembles octroi closely, but really it differs from the latter in 3 respects, namely, (1) that under it there are no refunds, (2) that it is usually assessed at so much per vehicle or load rather than on the weight of consignments, and (3) that for it there are no *ad valorem* rates, though different kinds of articles have to pay at different rates varying from 6 pies to 12 annas per cart or load.

With two exceptions (Khurja and Lucknow) the terminal toll is levied in all municipalities which have the terminal tax. Its total yield in 1940-41 was Rs. 10.11 lakhs.

The Tax on Houses and Lands. This tax is levied on the annual value of buildings and lands. Annual value as understood in this connection means the gross annual rental. In case of buildings not rented or not meant to be rented (*e. g.* factories), annual value means a certain percentage not exceeding 5 of the estimated present cost of erecting the building plus the value of the appurtenant land. The board may grant exemptions from this tax for social and philanthropic reasons. Thus in Cawnpore houses whose annual value is upto Rs. 72, schools, hospitals, religious and philanthropic buildings are exempt from this tax.

The assessment of this tax presents many complicated problems, but usually it is made in our municipalities by a rough and ready method. The assessing officer ascertains the actual or estimated monthly rent and determines the annual value thereby. The assessment is quinquennial, *i. e.*, has to be revised every five years, but a new building is assessed whenever it is ready. The rate of assessment is not subject to any limits and each municipality decides for itself. It is levied at $3\frac{3}{4}\%$ of the annual value at Cawnpore, and $4\frac{1}{16}\%$ at Allahabad. The rate seldom exceeds $7\frac{1}{2}\%$ in practice.

The act grants large discretionary powers to the assessing authorities in the valuation and assessment of this tax. If the sum for which a building is actually let is too low or too high according to the prevailing rents, it may be increased or reduced to reasonable proportions. Persons occupying large ancestral houses but reduced in their present circumstances, may be exempted by the board from this tax for a year at a time or permanently. The government too can

grant similar exemptions. If the premises remain vacant for 90 days continuously in the same financial year, and notice of vacancy and reoccupation is duly given, remissions for the period would be granted, though the rule does not apply to houses not meant for permanent occupation, *e.g.*, pleasure resorts, country houses etc. It does not apply also to the hill municipalities.

The liability to pay this tax is of the owner, but if he is not found or does not pay, the occupier or tenant may be asked to pay in his stead, reimbursing himself out of the rents due to the owner.

In 1940-41 this tax was in force in 33 municipalities and its yield was Rs. 12'45 lakhs.

The collection of the tax is by the indoor or outdoor method. In the first, the tax payers pay at the municipal office itself. In the second case bill collectors go from house to house collecting the demand and giving receipts duly signed.

The Water Tax. The water tax also is assessed on the annual value of lands and buildings.³ Land used exclusively for agricultural purposes is not liable to this tax.⁴ Buildings and lands outside a specified radius (usually fixed at 600 feet from the nearest standpipes or other water works also are exempt from it.⁵ This tax must be imposed solely with the object of meeting the expenses of water works, that is to say its proceeds cannot be spent on any other object. The rate at which it is levied varies in different municipalities, *e.g.*, it is 6½ per cent of the annual value at Cawnpore and 6¾ per cent at Allahabad where the annual value does not exceed Rs. 120 and 10½ per cent where it does. Houses upto the annual value of Rs. 180 are exempt from this tax at Cawnpore and the figure for Allahabad is Rs. 48 or less provided that no water connection exists.

Water may also be sold by meter for various purposes but the proceeds of such sale constitute a distinct item. It is a moot question whether the proceeds of sale of water can be spent on purposes other than waterworks. The Allahabad municipality has taken the view that they can be spent.

The tax was imposed by 17 municipalities in 1940-41 and its yield was Rs. 21'13 lakhs.

Tolls on Roads and Ferries. These tolls must not be confused with terminal tolls. The road tolls are meant to supplement the vehicles tax and are restricted to carriages

³ Section 128 X.

⁴ Section 129 (a).

⁵ Section 129 (a).

and carts not registered in the municipality. The ferry tolls are payments for the ferry service of boats or bridges. In 1940-41 these tolls yields Rs. 7'47 lakhs.

Taxes on Animals and Vehicles. The Act permits three separate taxes under this head which can be and usually are levied together. These are (i) a tax on vehicles and conveyances kept within the municipality or plying there for hire or on boats moored within the municipality, (ii) a tax on dogs kept within the municipality, and (iii) a tax on animals used for riding, driving, draught, or burden. These taxes are levied and collected by means of licenses. The rates of fee vary for different classes of animals and vehicles. The municipality may grant exemptions to certain kinds of vehicles or owners, *c. g.*, at Cawnpore children's chaises, parambulators, bicycles of policemen, municipal employees and students, school and army vehicles etc. are exempt. The yield of these taxes in 1940-41 was Rs. 2'16 lakhs.

Taxes on Professions and Trades. Two kinds of taxes are permitted under this head, namely, (1) a tax on trades and callings carried on within the municipality and deriving special advantage from or imposing special burden on municipal services ⁶ and (2) a general tax on trades calling and vacations including all employments remunerated by fees or salary. ⁷

The first of these taxes is a specialized one and should not be imposed unless a particular trade or calling derives special benefit from or imposes special burden on municipal services. Usually it is levied on such trades as sugar refining, tobacco and potato growing, brick and lime manufacturer etc. Occasionally it has been levied on grain and cloth merchants also though the justice of that is difficult to see. The assessment of the tax is made on the basis of information supplied by assessees at so much per acre of crop sown, or the quantity of produce or sale etc.

The more general tax on trades, professions and callings is levied on incomes but subject to a number of restrictions to prevent it from developing into a local income tax. In the first place incomes upto a certain annual sum (Rs. 100 according to model rules) is exempt. Secondly it is graduated according to incomes of assessees who are grouped into a number of classes on that basis. Fixed amounts of tax are prescribed for each class or percentages of income payable as tax may be laid down subject to a fixed maximum

⁶ Section 128 (ii).

⁷ Section 128 (ii).

more than which may not be demanded from any single assessee. The object of this is to prevent undue taxing of the wealthy. The U. P. Model rules suggest grouping of assessees into two classes only according as the tax payable is Rs. 75 or more, or less than Rs. 75 per annum.⁸

The U. P. Municipalities usually impose the first variety or the specialized tax on trades and professions only, and not the general one. In 1940-41 this tax was in force in 46 municipalities but its yield was only Rs. 1'85 lakhs many of them realizing from it very small amounts only.

The Tax on Circumstance and Property. This tax is a more general substitute for the tax on trades and professions and accordingly it cannot be levied simultaneously with the latter. The restriction, however, does not apply to the tax on special trades under section 128 (ii). This tax extends to all kinds of incomes even agricultural. It is assessed in the same way and on the same basis as the general tax on trades and professions, *i. e.*, annual income. Here also the minimum assessable income and the maximum amount payable by a single assessee have to be laid down.

Since the passage of Govt. of India Act, 1935, the tax on circumstance and property, as a variety of income tax, has been held to be a federal source of revenue. No new municipality can now, therefore, impose it though where it already exists it is allowed to continue.

In 1940-41 the tax was in force in 14 municipalities and yielded Rs. 1'20 lakhs.

The Conservancy Tax. Under this head a scavenging tax and a tax for cleansing of latrines and privies are permitted.⁹ These taxes must be imposed solely with the object of defraying the expenses of conservancy and their proceeds cannot be applied to any other purpose. No board can impose them unless it undertakes the cleansing and scavenging services.¹⁰ This cannot be done by the board for houses in respect of which the sweepers have customary rights of service except with their consent. Accordingly these taxes are found in newly developed parts of towns only usually the civil lines. The taxes are assessed on annual value of lands and buildings usually on a graduated basis. In 1940-41 these taxes were in force in 15 municipalities, and yielded Rs. 1'18 lakhs.

⁸ By an amendment of Govt. of India Act, 1935, the demand from an assessee on account of the tax on professions, and callings has been limited to Rs. 50 only. but a saving clause has been inserted in it in favour of the U. P. municipalities.

⁹ Section 128 XI and XII.

¹⁰ Section 130 (a) & (b).

MUNICIPAL FINANCE

The Pilgrim Tax. This tax could formerly be imposed under clause XIV of section 128 with the sanction of provincial government confirmed by Governor-General-in-Council. Under the Government of India Act, 1935, it is no longer permissible, but the municipalities where it has already been in force are allowed to continue it for the time being. It is in force at Fyzabad, Mirzapur, Benares, Allahabad, Soron, Brindaban, and Muttra. It is levied on railway tickets and collected by railways for a commission. Both incoming and outgoing passengers may be subject to it. Unusually there is a free zone on both sides (*e. g.* stations within 36 miles at Allahabad) within which the passenger do not have to pay it. The proceeds of this tax are usually earmarked for provision of conveniences to pilgrims and for prevention of epidemics. In the seven municipalities where it was in force, this tax yielded in 1940-41 Rs. 2.79 lakhs.

Procedure for the Imposition of Taxes. In connection with the imposition of municipal taxes, the first thing to be borne in mind is that there are some of them which cannot be levied simultaneously, *e. g.*, the tax on trades and professions and the circumstance and property tax, or the octroi and the terminal tax. Municipalities which, however, imposed the incompatible taxes before July 1, 1916, are allowed to continue the old practice. Also an octroi on animals for slaughter is allowed to be imposed along with the terminal tax.¹¹ Secondly, there are some taxes which can no longer be levied by the municipalities in view of the provisions of the Government of India Act, 1935, *e. g.*, the terminal tax, the tax on circumstance and property etc. Finally the water tax and the scavenging and latrine taxes can be levied only for meeting the cost of these services and for no other purposes. No limitations attach to the other taxes.

The procedure for the imposition of a tax falls into seven distinct stages which are as follows :—

(1) Framing of the proposals by special resolution. These proposals must specify the tax, the persons or classes liable, property or circumstance in respect of which the tax is to be imposed, the amount or rate of tax, and any other information required by rules. To the proposals must be appended the draft rules which the municipality wants to be made regarding the assessment and collection etc. of the tax.

(2) The proposals and the rules must be published along with a notice in prescribed form (schedule III of the Act)

¹¹ G. O. No. 302 M. C./X2-244-E dated 13th Sept. 1917, M. M., p. 222.

intimating to the inhabitants the intention of the municipality to levy the tax.

(3) Consideration of objections, if any, received within a fortnight of the publication of notice, and passing of orders thereon by special resolution. Should the proposals be modified, republication is necessary and also the consideration and decision of any fresh objections that may now be received.

(4) Submission of final proposals to the commissioner along with the objections—In case of non-city municipalities, the commissioner takes the decision himself. In case of city municipalities, he submits them to the provincial government. The sanctioning authority may sanction, reject, or modify or return the proposals.

(5) When the sanction of the requisite authority has been received by the board, it must direct by special resolution the imposition of the tax from a specified date.

(6) A copy of this resolution must be sent to the sanctioning authority.

(7) Upon this the sanctioning authority notifies the imposition of the tax from the specified date in the gazette and it comes into force.¹²

The procedure for the alteration or abolition of a tax is the same. Under Section 137 the government may require the board to remove any defects in any taxes as imposed, and in case of the failure of the board to do so, may themselves do so. They may also reduce or abolish a tax.

Though consolidation of taxes on houses and lands and scavenging and privies is permitted for purposes of assessment and collection, each must be imposed separately and not together.¹³

FEEES

The fees realized by the municipalities are of four kinds. Firstly there are fees whose object is to recover a part of the cost of service from which persons derive special advantages, *e. g.*, fees from educational or medical institutions. Secondly there are the license fees. Here the main object is acquisition of information regarding the various activities or things to which licenses relate, with a view to their regulation and control. Thirdly there are fees for issuing notices, warrants etc. in connection with the recovery of municipal claims. Lastly there are fees for particular acts done, *e. g.*, for giving copies of documents and records, making water connections etc. The reports on municipal ad-

¹² Sections 131 to 135.

¹³ Section 138.

ministration and finances do not give separately the income from various kinds of municipal fees and so it is not possible to give the figures of proceeds from this source. Some of these fees are authorised by law, others by rule, and others by the bye-laws of municipalities.

INCOME FROM MUNICIPAL PROPERTY

This consists of rents of municipal lands, houses, dakhungalows, and sale-proceeds of municipal property. No separate figures for this either are available, but the income from municipal property and powers apart from taxation in 1940-41 was Rs. 47'65 lakhs.

GRANTS AND CONTRIBUTIONS

These are from the government, other local bodies, or other sources. Of these the government grants are most important and in 1940-41 amounted to Rs. 8'40 lakhs out of a total of Rs. 9'06 lakhs of all kinds of grants and contributions.

The government grants to municipalities are given under three heads for general purposes, educational purposes, and medical purposes. All the boards do not receive these grants. They are based on no principle save the financial needs of the particular boards. The educational grants amounted to 6'17 lakhs out of a total of Rs. 8'40 lakhs of government grants in 1940-41.

MISCELLANEOUS

Under this head come such items as fines etc. There are a number of Acts under which municipalities used to get the amounts of fines imposed for the violation thereof or in pursuance of their provisions, e.g., the Hackney Carriages Act, the Cattle Trespass Act, etc., but under 'Adaptation of Indian Laws Order 1937 these sources have technically become provincial. Hence the budgetary head 'realizations under special Acts' has now disappeared from the income figures of municipalities. These fines etc. are, however, returned to municipal board by the government as before and are now classed under the head 'other sources.'

The Total Income of Municipalities. The total income of the U. P. Municipalities in 1940-41 was Rs. 19,667,310 and was made up of the following:—

Octroi	...	...	Rs. 4,249,610	Incidence
Terminal Tax	...	...	Rs. 3,054,812	per head of
Terminal Toll	...	...	Rs. 1,011,345	Population
Tax houses & lands	...	...	Rs. 1,245,941	Rs. 5-12-9.

Water Tax	...	...	Rs. 2,113,462
Tolls on Rounds and			
Ferries	...	...	Rs. 747,481
Tax on animals & vehicles...			Rs. 216,377
Pilgrim Tax	...	...	Rs. 2,79,613
Tax on Professions and			
Trades	...	...	Rs. 185,995
Tax on Circumstance and			
property	...	...	Rs. 120,387
Conservancy Tax		...	Rs. 118,635
Minor Taxes	...	...	Rs. 6,450
Grants and Contributions	...		Rs. 906,913
Other sources	...	...	Rs. 5,410,289
Total			Rs. 19,667,310

Municipal Expenditure. In 1940-41 the provincial figures of municipal expenditure were as follows :—

1. General Administration....	Rs. 946,850
2. Collection charges	... Rs. 1,141,234
3. Public Safety	... Rs. 2,030,869
4. Public Health and Conve- nience	
Water Supply	... Rs. 3,271,727
Drainage	... Rs. 706,336
Medical	... Rs. 4,221,576
Public Works	... Rs. 1,761,688
5. Public Instruction	... Rs. 2,926,869
6. Miscellaneous (Interest on loans)	... Rs. 602,714
7. Other items	... Rs. 2,099,500
Rs. 19,709,363	

Of these heads of expenditure, general administration includes the charges of office establishment, inspection etc. and collection charges relate to the realization of tax dues. Other heads of municipal expenditure are self-explanatory.

The Budget Procedure. The municipal budget has to be drawn up in the form prescribed by rules. To it is attached a list of original works to be executed during the year. A

copy of the budget must be ready at least a week before the date of the budget meeting which must be held before 15th March, or in case of indebted boards whose budgets are subject to the commissioner's sanction before 15th February, schedules of estimates of income and expenditure relating to water supply, drainage, public works and lighting other than electric, must be ready and sent to the superintending engineer, public health engineering department, so as to reach him before December 20, to be returned by him with his remarks before January 30. ¹⁴

The Act says that the board "shall have prepared and laid before it"...the budget. ¹⁵ In practice the duty of getting the budget prepared devolves upon the executive officer or secretary. He asks the various departments to prepare their estimates for the coming year, and the process should begin in September or October of the current year. The accounts department has to bear the brunt of the burden. In the budget the actuals of the past year, estimates of the current year, actuals of the first six months of the current year, and the estimates for the coming year have to be shown side by side. When the budget is ready, it is scrutinized by the finance committee if there is one, or else by the chairman, executive officer, and any other officers whose help may be found to be necessary.

At a fixed date, the budget is placed before the board and it has to be passed by a special resolution. The changes recommended by the superintending engineer, if any, may be disposed of by the board as it deems fit. Copies of the budget as finally passed have to be submitted to the commissioner and the district magistrate, and copies of the schedules relating to water supply etc. to the superintending engineer public health engineering department. The budgets of indebted boards in respect of which a special order has been passed to that effect, have to be submitted to the commissioner for his sanction. ¹⁶ This is to ensure that due provision exists in them for meeting the debt obligations of the board. The budget as finally sanctioned or passed must be published in a local or some other approved newspaper.

Every board must provide in its budget for the prescribed closing balance. ¹⁷ This is prescribed for each board by the commissioner of the division. Roughly speaking the amount of closing balance for a board is the average amount needed for expenditure in April, i.e., in the first month of the

¹⁴ Budget Rules No. 1 to 4, M. M., Part II, p. 235.

¹⁵ Section 99.

¹⁶ Section 102.

¹⁷ Section 101.

opening financial year. The reason for its provision is that while expenditure commences with the very commencement of the financial year, the income of the board takes some time to come in. The board must, therefore, have a sufficient amount in hand to meet the expenditure meanwhile. Not unoften, however, the boards fail to provide in their budget, the minimum prescribed closing balance.

Alterations in the Budget. A budget is no use unless it is adhered to. Accordingly, the boards cannot incur any expenditure in excess of budget provision for that. The only exception to this is refund of taxes where the budget provision may be exceeded, if necessary.¹⁸ If it is necessary to charge any provisions of the budget, it may be done from time to time by the same procedure as is prescribed for the passing of the budget.¹⁹ These changes, that is to say, must be made by special resolution, and in case of indebted boards subject to the special order of sanction, must receive the commissioner's sanction. Where refunds have been granted in excess of the budgetary provision, the deficiency must immediately be made good by the necessary alteration.

The Revised Budget. As soon as possible after 1st October, a revised budget for the current year must be framed and passed according to the procedure described above. By October the actuals of the first half of the year are available, and in their light the estimates of the current year may be revised with greater approximation to the realities of the situation than was possible at the time of framing the original budget.

BORROWING

All municipal expenditure cannot be met conveniently out of the current revenues. In fact it is only current or recurring expenditure that is so met. For all big capital or non-securing expenditure borrowing has to be resorted to. If a municipality needed let us say Rs. 90 lakhs or so for constructing water works and attempted to raise the amount by increasing its rates and taxes, they would have to be raised very high indeed, and would work great inconvenience and hardship for the tax-payers. It would also be unfair to do so, because the water-works once constructed would give service for 40 or 50 years, and so their financial burden should be borne by all the successive generations that reap their benefit. The amount required is, therefore, borrowed and gradually paid off with interest over a period commensurate with the life of the work in question.

¹⁸ Section 103.

¹⁹ Section 99 (3).

MUNICIPAL FINANCE

Municipal borrowing is, therefore, quite an approved method of financing works of improvement specially of a productive kind, and it is no reproach for a local body to be indebted. An unindebted board, on the other hand, may be so, because it is unprogressive and does not provide the usual amenities to its citizens.

The sums borrowed have, however, to be repaid and with interest. The money for that can only come out of the current income of the municipality. If there is no disposable surplus from that income and there is no possibility of increasing it further, the limit of borrowing may be said to have been reached, and no fresh borrowing should be resorted to. It should, however, be remembered that every productive work goes to swell the municipal income, and with judicious selection and management, the debt limit may be kept off almost indefinitely.

Borrowing by Indian local bodies is regulated by the Indian Local Authorities Loans Act, 1914, and the rules made thereunder. The leading provisions of these are summarised below.

Purpose of the Loan. Section 3 of this Act defines the purposes for which local bodies can borrow. These are:—

- (a) The carrying out of any works which the local body is authorised to carry out,
- (b) Famine or Scarcity relief,
- (c) Prevention of outbreak or spread of any dangerous epidemics,
- (d) Measures auxiliary to (b) and (c), and
- (e) Repayment of previous loans, but the period of repayment of the new and the previous loan added together must not exceed the legally fixed maximum period for loans (which commonly is 30 years).

The rules provide that no loans can be taken for any work unless it is within the jurisdictional area of the local body concerned and is for the benefit of the inhabitants thereof. No loan can be granted which is of an unusual nature or is devoted to objects outside the ordinary work of administration.

Nature of Loan. Local authorities as a rule are not permitted to borrow by issue of bills of exchange or promissory notes payable within a period not exceeding 12 months.²⁰ The only exception to this rule are a few authorities mentioned in schedule A of the Act (presidency

²⁰ Section 3 (2) and 6 (1).

corporations and past trusts etc.), and any others specially permitted to do so by the Governor-General-in-Council through a notification published in the Gazette of India. Loans payable at the option of local authorities too are not permitted except with the previous sanction of Governor-General-in-Council in case of a district board for railway construction.

Period of Loans. The period of loans ordinarily contemplated by this Act and rules is not more than 30 years. In any event, loans for a longer period require the sanction of the Governor-General-in-Council.²¹

Sanctioning Authority. No loans can be raised without the sanction of provincial government or government of India as the case may be. The provincial government can sanction, (a) in case of loans desired from government, loans upto any amount provided the term does not exceed 30 years and rate of interest offered is not less than 4 per cent and (b) in case of loans to be raised in the open market, any loans the amount of which does not exceed 5 lakhs and the terms 30 years. For loans which do not fulfil these conditions, the sanction of government of India is necessary.²²

Local bodies are forbidden to borrow otherwise than according to the provisions of the Act.

Security. Local bodies can only borrow on the security of their funds. Their lands, buildings or any other movable or immovable property cannot be accepted as security.

The Procedure of Raising a Loan. When a local body wants to borrow, the first step is to pass a resolution for the purpose. Then an application has to be made to the provincial government stating :—²³

- (a) the purpose for which the loan is sought and the estimate of the cost of the work to be financed by it,
- (b) the funds on the security of which it is desired to borrow,
- (c) the date by which the money should be available, and if it is desired in instalments, the particulars of these,
- (d) the rate of interest,
- (e) the term of the loan, and the method of repayment. If the loan is to be repaid by the sinking fund method, the rate of interest assumed for the increment of the fund, and

²¹ Local Rules No. 3.

²² Rules Nos. 9 to 11.

²³ Local Authorities Loans Rules No. 4,

- (f) an account of the financial and the existing debt position of the local body. In practice this means the submission of the accounts of the past three completed years showing ordinary income and expenditure.

After receiving the application, the provincial government may institute an enquiry to ascertain the correctness of the facts stated in the application and the utility of the purpose for which the loan is wanted. If the purpose is illegal or unsatisfactory the application is forthwith rejected.

If the government, after the enquiry or without it, think that the loan should be allowed, they publish the application in the Gazette with such particulars of the enquiry if any as may be necessary.

After expiry of one month from the date of publication, and after considering any objections that may have been received, the government may dispose of the application finally. They may reject it, or refer it to government of India if its sanction is beyond their competence, or sanction it. The limits of the sanctioning power of the provincial government in the matter have already been noted.

If loan is desired from the government, nothing more has to be done after its sanction, for the government advance the money in due time. If, however, the loan has to be raised in the open market, after the sanction of the application, it has to be duly floated. A prospectus of the loan has to be issued setting forth the amount, the term, the rate of interest and other particulars. Tenders are invited for it. The loan may be subscribed at a premium, at par, or at a discount. In the last case there is a loss to the local body, and it is usual for the notice calling for tenders to prescribe that tenders below par will not be accepted. All tenders have to be accompanied by an earnest money. At a fixed date, the tenders are opened and are accepted or rejected according to merits. The earnest money of rejected tenders is returned. In case of accepted ones the balance of the amount is called for. If it is not forthcoming in any case, the earnest money is forfeited. Finally, the contract documents called variously as bonds, debentures or stock are prepared and issued to the creditors. Each bond or debenture is for a definite amount (*e.g.*, Rs. 10, Rs. 100, or Rs. 1,000 and so on) and has printed on it the conditions of the loan.

Raising of loans in the open market is an expert's job, and local bodies should obtain in the matter the assistance of reliable financial brokers who have to be paid a suitable commission for the service they render.

Repayment of Loans. There are two principal methods of repaying local loans, namely, the annuity or instalment method, and the sinking fund method. The essence of the annuity method is that a portion of the principal and the interest is paid every year during the term of the loan, the instalments being so arranged that at the end of the loan period the entire amount is cleared off. The instalments or annuities paid may be equal for all the years or they may be unequal. In case of government loans, the usual method of repayment is the equal annuity system. The annuity to pay off a given sum at so much per cent interest in a given number of years can be easily ascertained from tables ready made for the purpose.

In case of sinking fund method, the whole amount of the principal is paid at the end of the loan period while interest is paid yearly or half-yearly as stipulated. Private creditors prefer this method of repayment. In order to make the entire amount of the principal available at the end of the loan period, the local body starts for each loan a sinking fund into which it pays yearly an amount calculated in such a way that all the instalments paid during the period together with compound interest on them will equal eventually the sum to be paid, *i. e.*, the principal of the loan. These instalments also can be found out from ready-made tables for the purpose. It should be carefully noted that under this method the yearly instalments paid do not go to the creditors but to a fund controlled and administered by the local body itself. The object is merely to put by something every year so that at the appointed time the required amount may be available for payment. The money in this fund is safely invested and earns interest all the time.

Considering all things, the annuity method of payment is safer on the whole for the local bodies, because in the sinking fund method, there is danger of unsafe investment being made and the money being lost. It is not, however, always possible to adopt any one method because the preference of the creditors also has to be consulted and non-government or private lenders generally do not like the annuity method of payment.

Penalties in Case of Default. If the indebted body makes a default in the repayment of principal or interest as agreed, the government can attach the funds on the security of which the loan was advanced. It may charge compound interest at a penal rate of 8 per cent on instalments overdue. The local body has to pay the cost of attachment proceedings when they are adopted. The government impose these

penalties on their own initiative or on that of private creditors according as the loan is from the government or has been raised in the open market.

Supervision Over the Expenditure of Loan Funds. The expenditure and accounts of loan funds are subject to government supervision and control. They have the power to inspect the works financed by loans and the accounts thereof. The loan money cannot be spent for a purpose other than that for which it was obtained.

Unspent Balances. If the whole of the loan money is not spent for the purpose for which it was raised, in case of a government loan, the government may require the balance to be repaid to themselves making the necessary adjustment in subsequent instalments of repayment. If the loan has been raised in the open market, the government may direct that the unspent balances should be used for the reduction of some other outstanding debt to the government or for carrying out some other work.

AUDIT OF MUNICIPAL ACCOUNTS

The Municipal accounts are kept in prescribed form according to the rules made by the government. No deviation from these forms and rules is permitted except with the special sanction of the Examiner of the Local Fund Accounts.

The Municipal accounts are subject to an annual audit conducted by auditors belonging to the provincial establishment of the Examiner, Local Fund Accounts. This audit takes place after a financial year is complete and it is only a test audit; i. e., only two months' accounts in any year are subjected to examination and the result of that is assumed to apply to the entire accounts of the years as a whole. If the test audit discloses serious irregularities or embezzlements, the government may order a special audit of a board's accounts. Such an audit may cover the entire accounts of one or more years. This is, however, an exceptional measure.

The Objections Statement and the Audit Note. The result of each audit is communicated to the board concerned in two parts, namely, (1) the objections statement, and (2) the audit note. The objections statement contains the unsettled or outstanding objections regarding which the auditor remains unsatisfied at the end of his enquiry. These objections deal with technical irregularities, mistakes, and defects. The audit note deals with matters of a general and important nature requiring the particular attention of the local and the higher authorities.

The objections statement and the audit note have to be considered by the board at a special meeting held within three months of the receipt of these documents. The board must express its opinion on each of the items mentioned, and these must be communicated to the examiner local fund accounts and the officer who reviews the board's administration report, *i. e.*, the collector or the commissioner. Any outstanding matters are settled by correspondence between the board and the Examiner. The latter may refer any points to the collector or the commissioner in case he is not satisfied with the action taken by the board. Should he be unable to agree with these officers also, he can refer the matter to the government whose decision is final.

Embezzlements. Whenever an embezzlement is discovered, an enquiry must at once be instituted by the chairman who should also report it to the examiner and the collector or the commissioner whoever reviews the board's annual administration report. After enquiry, the reviewing officer may make a report to the government, if necessary, stating the amount embezzled, the method of embezzlement, and the steps taken to recover the money and to punish the offender.

SURCHARGE

The Examiner Local Fund Accounts may call upon any member, officer, or servant of the municipal board to make good from his pocket any loss, waste, or misapplication of municipal funds due to his negligence or misconduct. This is called 'Surcharge'. When the loss etc. is due to the collective decision of the board or a committee, all the members supporting that decision are liable to the surcharge, *i. e.*, the total amount of surcharge is divided among them equally or otherwise as may be determined. Persons voting against the proposal, or absent from the meeting at which the objectionable expenditure was authorized, are not liable if a surcharge follows. There is also a time limit for the liability to surcharge. Nobody can be surcharged for any loss etc. after the expiry of six years from the date when it occurred, or after three years of his ceasing to be the chairman, member, or servant of the board, whichever point of time may be later. This means that the liability to surcharge is there for six years at least from the date of the occurrence of the loss etc., but it may exist longer in case the person concerned continues to be the chairman, member, or the servant of the board, and will not cease till three years after the severance of his connection with the board. ²⁴

²⁴ Notification No. 2188/IX-500-1938 of 1941.

Reasons for Surcharge. The reasons for surcharge may be numerous, but the following are the most important, namely :—

- (a) incurring expenditure contrary to the Act or rules,
- (b) acceptance of higher tender in preference to lower without sufficient and duly recorded reasons,
- (c) remissions of board's dues contrary to the Act and the rules,
- (d) neglect to realize the board's dues, and
- (e) want of reasonable care in the custody of the board's funds.

Procedure of Surcharge. The first step in the surcharge procedure is that the Examiner calls for an explanation from the person concerned, through the chairman, to show reason why he should not be surcharged. If the chairman himself is to be surcharged, the explanation is demanded from him through the commissioner. Two months' time is allowed for the giving of the explanation. Having considered the explanation, or in case it is not furnished, after the expiry of two months, the Examiner with the commissioner's approval may surcharge the person or the body concerned.

Appeals Against Surcharge. From the surcharge order, an appeal may be made to the government through the commissioner within 30 days of its issue. From the government's decision, a second appeal may be made, if necessary, to the ordinary courts. In appeal proceedings the Examiner becomes the defendant and the cost of litigation is met by the board concerned.

THE ADMINISTRATION OF CERTAIN MUNICIPAL SERVICES

The services carried on by the U. P. Municipalities relate to public safety, public health and convenience, and public instruction. Under public safety, they provide for fire protection, lighting, and destruction of wild or dangerous animals. Under public health come water supply, drainage, cleansing, medical relief, epidemic control, prevention of adulteration of food and drugs, and a number of similar other things. Public convenience includes provision of roads, parks, gardens, traveller's rest houses, cattle pounds etc. Finally public instruction means the education of citizens through schools and other means. We discuss these services briefly.

1. Public Safety

A. FIRE PROTECTION

In cities, with a large number of houses huddled together, and outbreak of fire, unless handled promptly can be very destructive. Accordingly, the municipalities try firstly to prevent the outbreak of fires and secondly to combat them promptly when they break out. To minimise the possibility of outbreak of fires, the municipalities regulate the storage of inflammable things like petrol, kerosene oil, etc. and require, through their building bye-laws, the construction of buildings with such materials as will resist fire. For lighting fires, when they have actually broken out, they (at least the bigger ones of them) maintain fire brigades. Fire brigades can be prompt and useful only in those municipalities which have a piped water supply so that the fire engines can be provided with an adequate quantity of water speedily. It is also necessary that there should be quick means of sending the information to the fire-station, like telephone.

The Powers of the Municipal Board in respect of Fire Extinction. Sections 187 and 188 of the U. P. Municipalities Act deal with the powers of the boards in connection with fire extinction. The boards are empowered to establish and maintain fire brigades and means of communication of intelligence of fire outbreak. The number of the firebrigade directing its operations, has the power to remove any persons obstructing operations, close any street near the fire, break into or pull down any premises for the passage of houses and other appliances, shut off mains and pipes so as to obtain greater pressure of water near the place of fire, and take other requisite steps for the protection of life and property. Any public officer above the rank of a constable, and the members and the higher officers of the board also may exercise these powers if required to do so by a magistrate. There is no liability for damages for doing any of these things in good faith. Under section 298 the board can make bye-laws prescribing the officer to whom fire outbreaks shall be reported and the procedure and the precautions to be adopted by the public to prevent such outbreaks.

B. PUBLIC LIGHTING

Lighting of public streets is a measure of public safety as well as convenience. Lighting is done by means of kerosene, gas, or electric lamps. Kerosene lamp lighting is commonly found in poor and smaller municipalities and sometimes in poorer and outlying quarters of even bigger municipalities. This kind of lighting is very inefficient and offers

great room for dishonesty. A kerosene oil lantern fixed at the top of a wooden or iron post throws out just a patch of light on one side of the street. The road surface remains for the most part dark. The lamp lighters try to save oil and make a little gain for themselves by putting too little of it in the lamp so that it goes out before the prescribed hour.

Gas lighting is rather rare except at the important road-crossings. Gas lamps are powerful and light well but they are costly.

Electric lighting is the best if a local authority can afford it. At present, however, it is confined only to a few of our bigger municipalities like, Cawnpore, Lucknow, Allahabad, Agra, Benares etc. The production and supply of electric power even in these cities is in the hands of privately owned electric supply companies with which the municipalities enter into periodic contracts. They seldom obtain fair and advantageous terms from these companies and disputes are quite frequent. The remedy of course is the municipalization of the electric works.

Lighting of streets follows either a moon-light schedule or a whole-night one. In case of the former, the lights are on only for the part of the night when moon-light is not available, though in case of important roads and crossings they may have to be kept burning the whole night. A moon-light schedule ensures economy as compared with the whole-night one.

Lighting is a costly service and the municipal expenditure on it in 1940-41 was Rs. 19'61 lakhs.

C—DESTRUCTION OF WILD ANIMALS, ETC.

To encourage the destruction of dangerous or wild animals, the municipalities offer small rewards to their killers. In practice, it is mostly the puriah dogs roaming about the streets of the cities that are caught and killed by a certain class of sweepers. The expenditure on this is negligible being only Rs. 1,518 for all the municipalities in the province in 1940-41.

2. Public Health

A. WATER SUPPLY

Importance of Water Supply. Of all the health services the supply of good drinking water is the most important, because impure water is responsible for numerous diseases like cholera, typhoid, dysentery etc., which often take an epidemic form.

Sources of the Supply of Drinking Water. Drinking water may be had either from earth's surface collections like rivers, tanks, etc., or from underground through wells. Surface water is nearly always polluted by coming in contact with human and animal refuse, and before it can be made potable, it has to be purified. The bigger municipalities maintain water works for the purpose. They take raw water from a river or lake, purify it by filtration, and then supply it to the people through pipes. There are only 17 municipalities in the U. P. with a piped water supply. The rest have to content themselves with taking measure for the protection from contamination of the wells from which the people get their water or else they may provide hand-worked pumps from which the people may get the sub-surface water in a more or less protected form.

Municipal Water Works and the Piped Water-Supply. Sections 228 to 235 of the Act deal with the powers and obligations of the municipalities in respect of water-works. A municipal board may construct water works within or (with the government's permission outside the municipal limits and may carry the mains and pipes through all kinds of public and private property. It may also enlarge, alter or discontinue such works at its discretion. ²⁵

Powers and Obligations of the Board in Respect of Piped Water Supply. A municipality imposing the water-tax is bound to maintain a piped water-supply throughout a prescribed area which may be the whole or part of the municipal area or with the government's sanction may include also the suburbs outside the municipal limits. It is the obligation of such a municipal board to maintain a prescribed pressure during stated hours. Stand posts must be provided along the principal streets at prescribed intervals.

Every owner or occupier of a building or land assessed to a prescribed minimum amount of water-tax is entitled to have a water-connection. Everyone having a water connection is entitled to a prescribed minimum quantity of water supplied to him according to the amount of the tax paid by him provided that he puts up on his premises a storage cistern of the prescribed height and pattern.

The board is not liable to damages in case of the failure of water-supply if it is due to accident, drought or other unavoidable cause.

Plumbers. All work in connection with water supply and fittings must be done either by the municipal agency or

²⁵ Section 224.

by licensed plumbers. All pipes and fittings used must be of a standard pattern prescribed.

Cutting off the Water Connection. The board or its executive officer may cut off the water connection of a person's house for default of the payment of the water tax or charges, for leakage or other damage to the pipe till it is repaired, for waste, for unauthorized extensions, when the house is unoccupied, if inspection is not allowed, or in case of unmetered connections for allowing other persons the use of water.

Water-charges. When a person obtains a connection, it is invariably metered and he has to pay according to the quantity consumed. In case of supply of water for domestic use, the meter is usually removed if the municipal authorities are satisfied that his monthly consumption as indicated by meter readings for the last several months is within the free allowance to which he is entitled by the amount of the tax paid. If the consumption is in excess of the free allowance or if water is taken for non-domestic (*e. g.* industrial) use, the connection remains permanently metered.

Persons with unmetered connections pay simply the water-tax calculated on the basis of the annual value of their houses or lands. In case of metered connections, the house owner has to pay the water-tax and also any extra charges to which he is liable if he exceeds the free allowance to which he is entitled. He has also to pay the rent of the meter fixed to his connection.

The rate at which water is charged for, differs in different municipalities. There may be different rates for domestic and non-domestic supply and for large and small consumers.

Waste. A goodly portion of water pumped into the mains is wasted. The mains and the pipes may leak, the plumbing fixtures may be loose and give out water, or the taps may be leaky or left open carelessly when no water is wanted. The percentage of the total supply wasted is often as large as one-third of the whole and sometimes even more.

There are numerous methods that are adopted to minimise waste, *e. g.*, inspection at night to find out which taps have been left uselessly open and to punish their owners, to offer free repairing of taps at the municipal cost, to

supervise plumbing work carefully, and to meter the connections. The last of these, metering, is the most effective method of checking deliberate waste, because when people have to pay for water according to the quantity consumed, they take care that it is not wasted. Metering is, however, objected to on social grounds. It is said that it leads the poorer section of the people to economise even in the necessary use of water, a liberal expenditure of which is essential for cleanliness and health.

Disinfection of Wells etc. Where there is no piped supply, people get their drinking water from wells, tanks or rivers. These are always liable to contamination, and a large many of them in the cities are actually polluted. All that the municipalities can do in respect of these sources of supply is to get them periodically cleansed and disinfected by the use of chemicals like lime or potassium permanganate. They are legally empowered to require the owners of wells etc., the water of which is used for drinking, to keep them in a state of due repair and cleanliness. If the water of a well is found unfit for drinking, the board may order its cleansing and disinfection, or if that is not possible, its closure temporarily or permanently. The board may order the removal of latrines or other filth storages from within 50 feet of the source of water-supply. ²⁶

B. CLEANSING

Importance of Cleansing. The health of the dwellers of a town or city depends more on the cleansing, removal and proper disposal of refuse and rubbish than on anything else. The dense population of the cities throws out daily a large volume of refuse and waste, and if it is allowed to accumulate and rot in the streets, one can easily imagine how uninhabitable the towns would become. The cost of this service is considerable, and in many municipalities it is the biggest single item of expenditure.

Kinds of Refuse and the Arrangements for its Collection, and Disposal. The refuse thrown out by a city is partly solid and partly liquid. Solid refuse consists of house sweeping, garbage, human and animal refuse and so forth. It may be dry like paper, pieces of wood and coal, or glass or crockery, or it may be wet like unused portions of vegetables, meat, or cooked food. Liquid refuse consists of the dirty water from kitchens, bath-rooms and drains. Liquid refuse with human excreta is called sewage.

²⁶ Sections 224 to 227 of the Municipal Act.

For the cleansing of streets and collection and carting away of solid refuse, municipalities maintain a troop of sweepers. They also clean the public drains and gutters and where there is no piped supply available, *bhistis* also have to be engaged to provide them with water for cleansing. Dustbins are provided along the streets at convenient intervals, wherein the people may throw their houses refuse, but often they are too few in number and the people throw refuse in front of their houses on the street. The sweepers gather these heaps together in carts and take the refuse to its place of disposal.

Liquid refuse, specially human excreta present a problem of their own. They are either removed by sweepers and taken to some place of disposal, or where there is water-carriage system, they pass directly into the sewers. But the contents of the sewers also have somehow to be disposed of, and it is one of the duties of the municipality to arrange for it.

Regarding the final disposal of refuse solid and liquid, there are a number of methods. For solid refuse the most usual method in the U. P. Municipalities is to dump it in low places or pits. The filled up ground in course of time may become reclaimed land and be used for building or other purposes. In order to make dumping sanitary, the dumped refuse must be covered by a layer of dry earth, otherwise, it gives out a foul smell and becomes the breeding ground of flies. Human excreta are most usually disposed of by trenching, *i. e.*, by being buried in shallow or deep trenches dug out on municipal trenching grounds or private agricultural land on request. Ground thus treated gets richly manured. There are also other methods of the disposal of solid or semi-solid refuse, *e. g.*, incineration or burning or preparation of compost from it and they are occasionally adopted.

As for the liquid refuse or sewage from the gutters and sewers, the most usual method in the U. P. Municipalities is to allow it to flow into some stream or river that may be nearby. This is a very objectionable practice, as it pollutes the river water which many people use for bathing or drinking purposes, but unfortunately in this matter our municipalities have consulted their convenience more than the health requirements of the people. Progressive municipalities of the west filter and purify their sewage before allowing it to flow into rivers, or they use it to irrigate sullage farms.

C. MEDICAL RELIEF

The municipal boards maintain hospitals and dispensaries for the free treatment of the sick poor. Their dispensaries are of the western or the indigenous type. The large municipalities also maintain special hospitals for the treatment of infectious diseases or for anti-rabic treatment etc. They also give grants-in-aid to privately managed medical charitable institutions, *e. g.*, to maternity and child welfare institutions established by Red Cross or similar other societies. Few municipalities provide a maternity and child-welfare service of their own.

D. OTHER HEALTH MEASURES

Besides the above health services the municipalities do many other things also in the interest of people's health, *e.g.*, vaccination against small pox, inoculations to secure immunity from cholera, plague, or enteric fever when these are suspected to have broken out in an epidemic form, anti-malarial work, inspection of specified articles of food and drink to prevent their adulteration, licensing of hawkers of certain articles of food or drink to ensure their sale under sanitary conditions, inspection and regulation of markets and slaughter houses, regulation of building construction to secure their healthiness etc. etc. They provide parks and open spaces wherein the dwellers of the crowded parts of the city may obtain fresh air and amusements. They look to school hygiene and do health publicity and propaganda work. Indeed, most of the activities of the municipal boards may directly or indirectly be related to its public health work.

Public health work including water supply and drainage accounts for nearly half of the total expenditure of the municipal boards and it occupies the same place of importance among municipal activities as education under the district boards.

PUBLIC WORKS

Ordinary and Health Works. Under municipalities a distinction is made between 'ordinary' and 'health works'. Health works include town planning schemes, sewerage and drainage schemes, water work, slaughter-houses, markets, dispensaries, model lodging house, baths etc. Ordinary works mean roads, bridges, and buildings other than those that relate to health works.

Board's Power of Sanctioning Works. The power of municipal boards to sanction finally the projects of works extends to all works which are financed entirely out of its own funds,

i.e., for which no loan or grant is sought. In case of works financed by assistance from government whether in shape of grants or loans, the sanctioning competence of the board is limited to works costing not more than Rs. 10,000. In case outside sanction is necessary, it has to be sought from the government in case of the ordinary works, and the Board of Public Health in case of health works.

The Agency for the Preparation of Projects of Works and their Execution. The bigger boards maintain their own engineering establishment headed by the municipal engineer and most of the municipal works are planned and executed under its supervision. In case of bigger and difficult works, however, especially those relating to public health and wherein government's financial assistance and sanction have to be sought, the government may require that the project be prepared by the public works or the public health engineering department of the provincial government, and that they should also be executed under their supervision. For rendering these services to the boards, the above-named departments of the government have to be paid according to a prescribed scale of fees for their trouble, and the board has of course also to pay the cost of work. But even in these cases, the project though prepared by an outside agency and sanctioned also by an outside authority must finally be approved by the municipal board undertaking it, and in its execution the outside agencies must closely adhere to the plan and estimates approved by the boards, and no material deviations from it are permitted except with the board's approval.

Contracts for Works. The actual execution of most of the board's works is done through the agency of contractors. Minute rules have been laid down in the Municipal Manual to govern the giving of contracts for works and other things. For all contracts exceeding Rs. 250 in value tenders must be invited by public notice. Where the value of the work involved is Rs. 5,000 or more sealed tenders must be invited by public notice advertised in the press. There must be reasonable time allowed in the notice for the tenderers to submit their rates. Tenders must be opened at a meeting of the board open to the public. Unless there are good reasons to the contrary, the lowest tender must be accepted. If there are reasons necessitating a departure from the rule of accepting the lowest tender, they must be recorded. Unless the reasons are recorded and sufficient, those responsible for accepting a higher tender in preference to a lower are liable to surcharge. When a tender is accepted, sufficient security must be taken from the tenderer for the fulfilment of the contract. The contract deed must be duly drawn up,

signed, and sealed. Among other things, it must specify the penalties for the breach of the contract.

Condition of Municipal Roads and Buildings. Municipal roads and buildings are on the whole better kept up than those of the district boards. The bigger municipalities like those of Lucknow, Cawnpore, Allahabad etc. have some of the best maintained streets in the province. The more important of their streets are paved with asphalt or cement-concrete or are at least tar-painted to keep off the dust. This is due to the greater financial resources of these municipal boards, and the greater pressure of public opinion that is brought to bear upon them in the matter of road maintenance. Every municipality has, however, its neglected streets, and the streets of smaller and poorer municipalities are little better than those of district boards. The same is true of the buildings too.

PUBLIC INSTRUCTION

Establishment and maintenance of primary schools is one of the obligatory duties of the municipal boards and at least 5 per cent of their normal income must be spent on it. They are also empowered to further education by other means *e.g.*, by secondary, higher and technical schools or even colleges and by establishing or aiding night schools, libraries, museums, art galleries etc. The U. P. Municipalities Primary Education Act, 1919, also empowers them to make primary education compulsory in part or the whole of their area.

In the year 1940-41, the municipalities maintained 151 secondary schools (including aided schools), 938 boys' primary schools, and 528 girls' school. They also aided 1543 boys' primary schools. The number of scholars on the rolls of all kinds of schools (including aided) was 269,773, and the total expenditure on all these schools was Rs. 2,926,869.

Municipal primary and secondary schools are subject to the same rules as those of the district boards. The scales of their teacher's salaries are, however, different. Each municipality determines for itself the rates of pay for its teachers. A few of the bigger municipalities maintain industrial or Anglo-Vernacular Secondary Schools too. Primary education has been made compulsory by many municipalities in part of their area, *i.e.*, two or three wards, but none of them has yet done so for the whole of it. Libraries and museums are found only in one or two municipalities and art galleries etc. are conspicuous by their total absence.

MISCELLANEOUS

Among the miscellaneous municipal services may be mentioned cattle pounds, ferries, arboriculture, markets, parks and gardens, management of fairs etc. etc.

CHAPTER X THE NOTIFIED AREAS

The U. P. Municipalities Act, 1916, empowers the provincial government to constitute any area other than a municipality, town area or agricultural village to be a notified area.¹

The number of notified areas in 1940-41 was 57. According to the *Constitution of Notified Area Committees*. The Act, a Notified Area Committee is to consist of 3 or more members appointed by the collector, or elected, or partly appointed and partly elected. In practice the Government have laid down the number of members and the method of their selection separately for each Notified Area. Broadly speaking, the number of members of notified areas varies from 3 to 7, 4 or 5 being the most usual. Of these in most cases some are elected and others nominated, though in a few cases, all the members are nominated, or elected.² In all cases the district magistrate has the power to add an additional member to give representation to any important community otherwise unrepresented.

Franchise. The notified area franchise belongs to male inhabitants of the area, who are assessed to any tax of the area other than octroi or toll etc. This is the general qualification but for one or two particular notified areas special electoral qualifications also are prescribed, e.g., at Bhowali every permanent occupier of a house paying a minimum annual rent of Rs. 36 is entitled to vote.³ Candidates besides being qualified voters should also be assessed to a notified area tax of not less than Rs. 100 a year. The disqualifications for electors and candidates are as under the municipalities.

Term. Term of notified area committees is three years. Elections are held usually in March.

Method of Election. Election is on the general ticket plan, i.e., each voter is permitted as many votes as there are seats to be filled, but he is not allowed to cast more than one vote for any one candidate.⁴ Election petitions are permitted on the usual grounds and are decided by the district magistrate.

¹ Section 337.

² Notification No. 1189/XI-11-N dated 23rd June, 1921, vide Notified Area Manual, p. 115.

³ N. A. Man., p. 137, Rule 1.

⁴ Notified Area M., p. 139 Rule 7.

The President. The chairman of notified areas is called the president. He is appointed by the commissioner from among the members of the committee. His powers and duties are similar to those of the municipal chairman.

Permanent Servants. The notified area committee has the power to prepare an establishment list of permanent staff, but it requires the collector's confirmation and must be revised when the collector requires so. The power of appointment, control, punishment and dismissal over the notified area servants belongs to the president subject to two restrictions. Firstly, appointments to a post carrying a salary of Rs. 30 or more per month require confirmation by the committee. Secondly, the committee has the right to hear appeals from such servants, (i.e., with a pay of Rs. 30 or more) in case of suspension and punishment. Appeals in cases of dismissal go to the district magistrate. ⁵

Functions of Notified Areas. With a few minor exceptions the functions of notified areas are the same as those of the municipalities. The notified areas have no power to regulate offensive, dangerous or obnoxious trades. They cannot establish hospitals and dispensaries or veterinary hospitals though they may support medical relief. Fire protection, maintenance of sewage farm, transport, and electric works, and holding fairs and exhibitions also do not figure in their list of functions. ⁶ These are the only differences between them and municipalities in the matter of powers.

The Finance of Notified Areas. The power to impose taxation in the notified areas belongs not to the committees of these areas but to the Government who have delegated it to the commissioners. ⁷ The latter can impose in these areas any tax which may be imposed in a municipality. The commissioners, however, are expected to allow the committees of notified areas to frame proposals of taxation and then to sanction them more or less in the same way as in case of municipalities. The taxes most usually imposed are those on houses and lands and circumstance and property. The budget of the notified area is prepared by its committee, but it is passed by the district magistrate. ⁸

Besides taxes, other sources of income are rents from Nazul and other property, fines, contributions and miscellaneous. Principal objects of expenditure are tax collection and office charges, public works, education, conservancy

⁵ N. A. Man., p. 117, Rule 1.

⁶ Section 788 of M. Act as modified for notified areas, vide N. A. Manual.

⁷ Notification No. 2032/XI-70-H dated 11th June, 1917, N. A. M., p. 135.

⁸ N. A. Account Rules, No. 16, N. A. M., p. 210.

and lighting. The total income of the notified areas in the U. P. in 1940-41 was 8'04 lakhs of rupees, and their total expenditure about the same.

External Control. Notified areas are subject to the same external control as municipalities with this difference than they are not liable to dissolution and supersession. Powers of external control over these areas are exercised by the collector and commissioner. The notified areas are also subject to the control of the collectors and commissioners in a number of other matters wherein municipalities are free, *e. g.*, budget making.

PART IV

THE DISTRICT BOARDS

CHAPTER XI

THE CONSTITUTION OF THE DISTRICT BOARDS

The Jurisdictional Area of the District Boards. Under the District Boards Act, 1922, the territorial jurisdiction of a district board extends to the whole of the 'rural area' comprised within the district from which it takes its name. 'Rural area' means the residue of the area of a district after excluding from it the municipalities and cantonments which there may be. ¹ Within the rural area of a district, the jurisdiction of the district boards is not, however, exclusive. It is functionally limited. There are excluded from it, (1) all works and institutions which an authority not under the control of the district board may be maintaining, *e. g.*, the works and institutions of the central and provincial governments, and (2) the notified and town areas in respect of the function which the law vests in their committees. ²

Conversely, the functional jurisdiction of the district board may extend in part even to the local areas excluded from its territorial limits. Thus the district board may have within municipal or cantonment limits, (a) its offices and (b) any schools, libraries, hospitals, poor-houses or other institutions for the common benefit of the residents of the urban as well as rural areas.

In respect of the town and the notified areas the district boards provide all these services that are not undertaken by the committees of those areas.

Bodies Corporate. Like the municipalities, the district boards also are bodies corporate with perpetual succession and common seal etc.

The Constitution of the District Boards. A district board consists of three elements, namely, (a) elected members from 15 to 40, ³ (b) nominated members not more than 3 in each board and (c) the chairman who if he is not a member of the board at the time of his appointment becomes one ex-officio. Certain officers of the government like the divisional engineer, the inspector of schools, the civil surgeon etc. can attend and speak at the board's meetings with the chairman's permission, but they have no right to vote. ⁴

¹ D. B. Act, 1922, Section 3, Clause 10.

² Section 93.

³ Section (4).

⁴ Section 54.

The Elected Members. Within the statutory limits of 15 and 40, the exact number of elected members for each board is fixed by the provincial government. An ex-minister of the province explained the method of doing this as follows: the districts with a population of 10 lakhs or more get the full quota of 40 members, while those with smaller populations lose 2 or 3 members for every lakh of the deficiency till the minimum of 15 is reached.⁵ There is no exact correspondence, however, between the population of a district and the number of elected members on its board. Of the 48 district boards in the province six have 40 elected members each, sixteen between 30 and 39 each, twenty-two between 20 and 29 each, and four between 15 and 19.

The Communal Representation for Muslims. Of the elected members in a board, a certain proportion is reserved for the Muslims according to a scale of weightage laid down in the Act. It is as follows:—⁶

Proportion of the Muslim population to the total population of the rural area according to the latest census for the time being.	Proportion of the Muslim representatives of the Muslim electorate to the total number of elected members including such representatives.
(a) Less than 1 per cent. (b) Not less than 1 per cent but less than 5 per cent. (c) Not less than 5 per cent but less than 15 per cent. (d) Not less than 15 per cent but less than 30 per cent. (e) Not less than 30 per cent	(a) 10 per cent. (b) 15 per cent. (c) 25 per cent. (d) 30 per cent. (e) The same as the proportion of the Muslim population to the total population of the rural area according to the latest census.

⁵ U. P., L. C. P., Vol. 68, p. 451, Mr. Rai Rajeshwar Bali's speech.

⁶ Section 5.

In calculating the number of Muslim representatives according to this scale, fractions not less than $\frac{1}{2}$ count as one and fractions less than $\frac{1}{2}$ are ignored. If e. g., the Muslims form 9 per cent of the total rural population and the number of elected members on the board is 30, the Muslims will have 8 members ($25 \text{ per cent of } 30 = 7\frac{1}{2}$, i.e., 8).

According to this scale, out of a total of 1407 elective seats in all the district boards of the province, the Muslims occupy 356, i.e., 25.3 per cent of the total. Since they form about 12.5 per cent only of the total population of the rural areas, the extent of weightage for them is slightly more than 100 per cent.

The Nominated Members. The nominated members on each board cannot be more than three. These nominations are made by the minister of local self-government (or by whosoever is the political head of the local self-government department) on the recommendation of the district officers. Government officials are not eligible for nomination, nor persons defeated at the general election immediately preceding. There is nothing in the Act to preclude the nomination of persons whose names are not on the electoral rolls of the district board.

Of the 3 persons nominated to each board, one must be from among the depressed and backward classes, another a woman and the third a representative of some rural class otherwise unrepresented.

The Term. The term of the district board is four years.

The Term, Privileges and Liabilities of District Board Members. The term, privileges and liabilities of the district board members are the same as those of the municipal members. They can also be removed from membership by the government for the same reasons. As a matter of fact the sections of D. B. Act dealing with these matters are indetical with those of the municipalities Act. ⁷

The Chairman. Any member of the district board or any person qualified to be elected a member, provided he can read and write English or one of the vernaculars of the province is eligible for the district board's chairmanship. Municipal members, chairmen, or servants, and also government servants cannot be candidates for the chairmanship of the district board. ⁸

The procedure of the district board chairman's election is identical with that of the municipal chairman with the

⁷ See sections 30 to 34 of the D. B. Act.

⁸ Section 35 (1).

slight difference that the hours of election on the date fixed are 1 to 5 P. M. instead of 2 to 4 P. M. as in case of the municipal chairman. In case of the failure of the board to elect the chairman according to the prescribed procedure, the government may nominate some one to the office either from among the persons whose names were proposed at the board's meeting held for electing the chairman, or from among the board's members.⁹ Petitions contesting the validity of the chairman's election are decided not by the government as in case of municipalities but by a special tribunal made up of a person or persons qualified to be the judges of a high court.¹⁰

The term of the chairman is the same as in case of municipalities, *i.e.*, normally four years or the residue of his predecessor's term if he has been elected to fill a casual vacancy.

Removal of the Chairman. The chairman of the district board like his municipal prototype can be removed by the government and also by a non-confidence motion passed by the board. The reasons and procedure of removal are exactly the same as in case of municipalities.

⁹ D. B. Act, Section 35-A.

¹⁰ Section 35 (2).

CHAPTER XII

THE DISTRICT BOARD ELECTORATE AND ELECTIONS

Qualifications for the District Board Electors. The following classes of persons unless they are subject to some disqualification, are entitled to be enrolled as electors for the district boards :—

- (a) Land owners paying an annual land revenue of at least Rs. 25.
- (b) Permanent tenure-holders, fixed-rate tenants, under proprietors and occupancy tenants liable to pay an annual rent of not less than Rs. 15 in respect of land within the rural areas.
- (c) All other tenants paying an annual rent of not less than Rs. 30 per annum.
- (d) All persons ordinarily residing in the rural areas and assessed to the income tax, or circumstance and property tax or any other local tax, and
- (e) All persons ordinarily residing in the rural areas and possessing the educational qualification of having passed any of the following examinations, namely, the Vernacular Final Examination, an examination of proficiency in India vernaculars or classical languages recognized by any Indian University or provincial government, and the vernacular upper primary. (IV Standard) examination.
- (f) In the hill patts of Kumaun, every owner of a fee simple estate and every person assessed to the payment of land revenue or cesses of any amount, and every khaikar. ¹

It should be noted that land-revenue or rent payers assessed to the prescribed minimum amounts of annual payment are voters on the strength of that qualification alone, but those with tax-paying or educational qualifications must also be the residents of the rural areas.

Disqualifications. In order to be a voter a person must possess not only one of the above-mentioned qualifications, but he must also be free from the various disqualifications

¹ Section 8.

laid down by law.² These disqualifications are the same and operate in the same way as those in case of the municipal electors.

The Size of the District Board Electorate. The district board electorate at an outside estimate does not number more than 32 lakhs or about 16 per cent of the total adult population of the rural areas. The provincial assembly electorate, on the other hand, is about 30 per cent of the adult population of the province. The rules of district board franchise are, therefore, out of date and totally inadequate now. They continue to exist simply because no general elections for the district board have been held for the last 10 years, *i. e.*, since 1935. At the municipal elections of 1944 the municipal franchise qualifications were brought in line with those for the provincial assembly electors and there is no doubt that the same will be done for the district board voters whenever the next general election takes place. It will mean the lowering of revenue and rent paying qualifications to the annual minimum payment of Rs. 5 and 10 respectively.

The Preparation and Revision of the Electoral Rolls. The preparation and revision of district board electoral rolls is done in each district under the supervision of the district officer. The draft electoral rolls must be ready before September 1 next preceding the general election. A returning officer is appointed for each tahsil and the patwaris and qanungos of the tahsil are summoned to its headquarters to help in the preparation of the rolls. They supply the names of persons qualified on the grounds of the payment of the requisite amounts of land revenue and rent from their records of the preceding fasli year. Names of the payers of the C. P. tax are copied out from lists supplied by district boards. Persons qualified on other grounds have to apply for registration to the district officer with a proof of their qualifications. In view of the communal representation for Muslims, separate lists of Muslim voters have to be compiled. The publication of the draft electoral rolls, the receipt and disposal of objections etc. are governed by the same rules as apply to the municipal electoral rolls.

Qualification of Candidates and Their Nomination. Every qualified elector can be a candidate for election to the board's membership provided he is free from the disqualifications for candidature. These disqualifications are the same as in case of the municipalities.³ Muslim and non-

² Section 9.

³ Section 12.

Muslim constituencies can be represented only by Muslims and non-Muslims respectively and not otherwise. The procedure for the nomination of the candidates is the same as in case of the municipalities.⁴

Constituencies. For district board elections single member constituencies are used. Every tahsil is divided into as many Muslim and non-Muslim constituencies as the number of members of each community assigned to it. A candidate is not limited in the choice of his constituency to the one where he is enrolled as a voter. Subject to the communal proviso already noted, he may stand from any constituency situated in his tahsil.

Elections. The election arrangements and procedure for the district boards are the same as in case of the municipalities.

Election Disputes. The procedure of disputing the results of district board elections and of presenting election petitions is the same as in case of municipalities.⁵ A district board election petition is not heard by the commissioner or the collector, but by the district judge within whose jurisdiction the constituency concerned is situated, or by a Munsif, or other judicial officers of a rank lower than the district judge. The list of electoral offences and corrupt practices is the same as in case of municipalities.

⁴ D. B. Election Rules 21 to 30.

⁵ Sections 18 to 21.

CHAPTER XIII

THE FUNCTIONS AND POWERS OF DISTRICT BOARDS

The Legal Basis of the Powers of District Boards. The legal basis of the powers of the district boards is the same as of the municipalities. *i. e.*, specific grant by the legislature. Besides the District Boards Act, 1922, which is the most important source of their powers, the district boards also receive powers from the cattle Trespass Act, 1871, Northern India Ferries Act, 1878, Vaccination Act, 1880, the U. P. Local Rates Act, 1914, the Local Authorities Loans Act, 1914 and the Primary Education Act, 1926. The last of these Act is of an adoptive character. There is the distinction of the obligatory and permissive powers in case of district boards also.

The Obligatory Powers. Communications, arboriculture on road sides, education, medical relief, water-supply and drainage, public health and sanitation, pounds, ferries, agricultural and industrial improvement, management of fairs and exhibitions, veterinary service etc. are some of the obligatory powers of the district boards.

The Permissive Powers. Laying out of new roads and village sites, registration of births and deaths, taking of census, reclamation of unhealthy localities, construction of railways, tramways, and other means of communication and of minor irrigation works, prevention of river pollution etc. are the more important of the permissive powers of the district boards.

Other Powers. Like the municipalities the district boards also are clothed with the necessary legislative administrative and financial powers necessary to the effective exercise of their main powers mentioned above. They can make regulations and bye-laws, pass the budget, and exercise the various executive and administrative powers. Like the municipal boards they have certain electoral functions too and elect their chairman and the various committees. These powers are exercised by the boards under the control of the provincial government, as laid down by law.

CHAPTER XIV

THE INTERNAL ORGANIZATION OF THE DISTRICT BOARD

With one important difference the internal organization of the district boards follows closely the municipal pattern. That difference relates to the position of the Education Committees which are, for all practical purposes, independent of the control of the district board. Thus while the administration of the municipalities is unified under the direction of the board, its chairman, and the executive officer, there is a dyarchy under the district boards, education being exclusively under the control of statutory and autonomous education committees, and other branches of administration under the control of the board and its officers.

Business Transacted by District Boards. The district board itself has to attend to the more important kinds of business. Such business, as in case of municipalities, is electoral, legislative, financial, and executive. As regards the electoral group of its functions, it elects its chairman, the vice-chairman, the various committees and their chairmen. Its legislative duties embrace the making of regulations and bye-laws which follow the same procedure as in case of municipalities.¹ Financially it passes the budget, and can impose, alter, or abolish the permitted kinds of taxes, tolls, and fees. Its executive and administrative duties include sanctioning of contracts for which there is no budget provision or which exceed in value Rs. 10,000, appointment and punishment of the secretary, engineer and certain other higher officers, determining the number and salaries of the staff required, combining of offices, transfer and control of property etc. etc. Powers other than those whose exercise is obligatory by the board itself, can be delegated to the committees or officers like the Chairman, Secretary etc.

District Board's Meetings and Procedure. The district boards except those of Garhwal, Almora and Nainital must meet at least once a month. The hill boards have to meet only quarterly. Additional meetings can be summoned by the chairman whenever he likes and must be summoned at the requisition of 1/5 of the members.

At the meetings of the board the chairman presides and he has the same powers in that capacity as belong to the

¹ D. B. Act. Sections 173 to 175.

municipal chairman. The rules of quorum, debate, voting, record of proceedings etc. are identical with those of the municipal boards.² Under the district boards also the usual distinction between ordinary, and special resolutions exists. The election of the vice-chairman, the appointment of the secretary and the engineer, framing of taxation proposals, passing and alteration of the budget, and making of regulations and bye-laws are some instances of the kinds of business requiring a special resolution for transaction.

Subordinates Agencies of the Board for Doing its Works. Such agencies consist firstly of individual officers and servants particularly the chairman and the Secretary and secondly, the various committees.

The Chairman and His Powers. The powers of the chairman as the presiding officer have already been noticed. As the head of boards' executive, it is his duty to supervise its entire administration and to bring to its notice any defects there may be. With certain important exceptions, he can appoint, control, punish and dismiss all the board's servants on a monthly salary exceeding Rs. 25. The exceptions relate to the certain higher officers like the secretary etc., whose appointment and control is vested in the board itself and the educational employees who are under the control of the chairman of the education committee. He can create temporary posts with such salaries as he thinks fit. He is the channel of communication between the board and the outside world. It is his duty to supply such information and papers etc. to the government and the board as these may require. Finally he presides at the meeting of the education committee on the occasion of the election of its chairman, and has a casting vote in case of a tie.

Besides these statutory powers, the chairman may also exercise all those powers of the board which it itself is not obliged under the law to exercise and which have not been delegated to any one else. In his own turn he can delegate any of his powers (except those of general supervision of administration and presiding at the board's meetings) to the vice-chairman subject to such conditions as he may impose.

The Secretary. The Secretary's position under the district boards is analogous to that of the executive officer under the municipalities except in this that he has no control over one of the departments, i. e., education. He is the head of the board's salaried staff and the principal adviser and assistant of the chairman. He has important statutory powers given to him. He can appoint and control the board's employees

² Sections 41 to 49.

on a salary of Rs. 25 per month or below (except the educational, public works and in certain case public health employees). He has numerous administrative powers in connection with the board's day to day work.³ He supervises the work of all the departments of the board except education and has important responsibilities in connection with the board's finances and accounts. He has also to attend the board's meetings and may be called upon to speak and explain things.

The Committees. The District Board's Act makes provision for three kinds of statutory committees, namely, the Tahsil Committees, the Education Committee, and the Finance Committee. Besides these, the board may establish by regulation any number of ordinary committees to help it in its work.

The Tahsil Committees. The Tahsil Committees consists of all members representing the constituencies within a tahsil or sub-division of the district.⁴ The board may also co-opt outsiders to the committee but they must not exceed $\frac{1}{3}$ of its total membership.⁵ The board also elects the chairman of the tahsil committee or if it does not, the committee may elect its own chairman. Two or more tahsils may have a common committee consisting of all their representatives, but for this the government's sanction is necessary. The term of these committees is the same as of the board, i. e., 4 years.

Though the Tahsil Committees are statutory, the District Boards Act does not vest in them any powers or financial resources. It simply says that these committees will "assist the board in the administration of the affairs of the tahsil, and shall have such powers and perform such duties as may be delegated to them by the boards."⁶ The model rules on the subject have fixed the upper limits of such delegation. They must not be empowered to sanction recurring expenditure exceeding Rs. 500 or to undertake works costing more than Rs. 5,000 or to control or punish officers serving an area wider than the tahsil. In practice very few boards have made any substantial delegation of powers to these committees. Under Garhwal district board, due presumably to the difficulty of communications, the tahsili committees have been given the maximum powers permitted under the

³ See Schedule II to the Act.

⁴ Section 62.

⁵ Section 57(1).

rules particularly in the matter of public works. The Cawnpore district board has delegated to them the power of repairing minor roads and buildings and of suggesting new works. Under Allahabad district board the tahsil committees have not been given any power to sanction estimates or contracts. The provincial report on the working of district boards has commented year after year that the tahsil committees exist only on paper.

The fact is that these committees represent a concession to the recommendation of the decentralization commission to re-establish the tahsil boards which had been abolished in 1906. The government were, from the very beginning, sceptical of their utility and so it has turned out to be. The district boards have not known what power to transfer to them usefully. It is unlikely that local committees like these can be useful till district boards develop activities like public assistance etc., requiring intimate local knowledge and interest.

THE EDUCATION COMMITTEE

The education committee was made a statutory and autonomous body by an amending Act of 1928 and its powers were further enlarged by a subsequent Act of 1932. The object of the change was to take education out of the control of the board and entrust it to a smaller, more compact, and better constituted body. This committee consists of twelve members, eight elected by the board from its own membership and four co-opted from outside. Election of the members of the committee is by the single transferable vote. Of the co-opted members one has to be a woman or with the government's approval a man actively interested in girls' education, a second a member of the district Mohammedan educational committee, a third from the depressed or the backward classes, and the fourth a head master or assistant master of a recognised school, who is a trained graduate of a university in these provinces. Not more than two of the co-opted members can be government servants of the education department provided they are not from the inspecting staff. The education committee must be constituted by the board within 15 days of the election its chairman. The term of the members of the committee is till the appointment of their successors, ⁷ i. e., normally four years.

The Education Chairman. The education committee elects its chairman from its own membership within 15 days of its constitution. ⁸ At this meeting of the committee, the

⁷ Section 63-A 9 (d).

⁸ Section 63-A 9 (a).

board's chairman presides and has a casting vote to resolve a tie. If the committee fails to elect its chairman within 30 days of its constitution, the choice goes over to the government, who can nominate one of the members of the committee to be the chairman. ⁹ No government servant even if he is a co-opted member can be nominated to the committee's chairmanship, though there is no bar to the election of such a person to the position. There is also a vice-chairman elected for one year only. ¹⁰

The term of the chairman of the education committee is till the appointment of his successor, ¹¹ i.e., 4 years in the usual course of things. He is removable at any time, however, by a resolution of the education committee passed by a clear majority and confirmed by a resolution similarly passed not less than 3 weeks nor more (3) 3 months after the passage of the first resolution. ¹² He is also removable by the government for abuse of power or habitual failure to perform his duty, ¹³ and subject to the approval of the government the board also can remove him by a special resolution supported by a majority of its total membership. ¹⁴ Finally, the dissolution of the education committee terminates the chairman's term automatically. ¹⁵

His Powers. The education chairman executes all the resolutions of his committee. Subject to the rules on the subject, he decides all questions in respect of the service, leave, pay, promotion etc. of the education employees. The education fund was separated from the board's general fund in 1931, and has since then been under the education chairman's control. Since education accounts for nearly 50 per cent of the district board's total expenditure, and since the teachers are the most numerous and important of the board's employees, the education chairman in point of powers, influence and patronage is not inferior to the board's own chairman.

Powers of the Education Committee. The Act vests all the powers and duties of the board concerning education in the education Committee. Subject to budget provision it can sanction educational contracts unless they exceed Rs. 5,000 in value or relate to "special repairs" or new educational buildings. In all cases of disputed jurisdiction, the

⁹ Section 63-A 9 (b).

¹⁰ Section 63-A 9 (c).

¹¹ Section 63-A 9 (d).

¹² Section 63-A 10.

¹³ Section 63-A 16 (a) and (b).

¹⁴ Section 63-A (19).

government arbitrate. As already remarked the education fund is separate from the board's fund. The resolutions of the committee are sent to the board for information but the latter has no power to revise, alter, or reject them. Thus the committee is for all practical purposes an autonomous body.

The Board and the Education Committee. The education committee is not, however, altogether independent of the board. In the first place, subject to the government's approval, the board can remove particular members and the chairman of the committee by a resolution supported by the majority of its total membership. With similar approval, it can even dissolve the whole committee by a $\frac{2}{3}$ majority vote.¹⁶ These powers of the board would be very formidable but for the fact that the government's approval is not given without a clear and convincing case against the intended victims. In practice, they are not often used. Secondly, the education demands still constitute part of the board's budget, and though the board cannot reduce them below the minimum prescribed by the government under 7 heads, the committee depends upon the generosity of the board for any additional funds it may require. Thirdly, education contracts exceeding Rs. 5,000 in value or relating to new educational building or special repairs need the board's sanction. Lastly the board may demand from the committee any information, records, accounts etc. All its resolutions are communicated to the board¹⁸ which may request it to reconsider any of them. The committee, however, is not obliged to comply with the board's wishes in the matter.

The Secretary of the Education Committee. The deputy inspector of schools is the ex-officio secretary of the education committee and it is his duty to advise it in all matters, particularly concerning rules and procedure.

The Finance Committee. This statutory committee was established by an amending Act of 1934¹⁹ and its object was to improve the board's budgetary procedure. It consists of the board's chairman who is its ex-officio chairman and six other members appointed by the board by special resolution. The secretary of the board is its ex-officio secretary. It has important powers in relation to the preparation and passing of the budget. These powers will be described in the chapter on the board's finances.

¹⁶ Section 63-A (19) and (20).

¹⁷ Section 63-A (19) and (20).

¹⁸ Section 63-A (12).

¹⁹ Act XXI of 1934.

The Non-Statutory or Ordinary Committee. The boards may establish by regulation any number of non-statutory committees called variously as departmental, standing, or simply sub-committees. The number, designation, and the power of these committees differ from board to board. Usually, however, a public works and a public health committee exists in most boards. Allahabad district board has the following committees, namely, the public works committee, sanitation committee, medical committee, and the development committee (having under it nazal, ferries, arboriculture, taxation, markets, gardens, traveller's rest houses etc.). Benares district board has a public works committee, a public health committee and an arboriculture committee.

The powers of these committees are delegated to them by the board by regulation. Usually they aid and advise the board in the affairs of their own department, supervise the work of the department to which they relate particularly in the matter of observance of rules and procedure, and are given power in some cases to sanction contracts upto a specified value. The numerous administrative matters pertaining to its department come to the committee for its decision, and though its resolutions on the subject usually require the board's confirmation for their validity, such confirmation is refused only in exceptional cases. The powers and influence of all the committees are not equal, nor is their membership sought equally. It all depends upon the amount of power and patronage available for a committee. Where these are present, members take an active interest. Otherwise, the committees meet seldom and do little.

The details of the constitution of these committees are fixed by each board for itself. The act, however, says that their members shall be elected by the board from its own membership by the single transferable vote.²⁰ Their term is only one year. Outsiders may be co-opted to them, but they must not exceed $\frac{1}{3}$ of the total membership. The chairman of each committee is elected by the board, or failing that by the committee itself.

Advisory Committees. The board may constitute advisory committee to study or enquire into any matter and report upon it.²¹ These may consist of board's own members as well as outsiders. These are *ad hoc* bodies and having done the particular work entrusted to them, become defunct.

²⁰ Section 56 (b).

²¹ Section 56 (2).

Joint Committees. By written agreement with one or more of other local authorities, the district boards may establish joint committees for looking after any matter of common interest to the contracting bodies. Such committees must be established when ordered by the government. Details of the constitution, powers etc. of the joint committees are settled by agreement among the constituent authorities. Any disputes among them are decided by the government. ²²

²² Section 63.

CHAPTER XV

THE DISTRICT BOARD'S PERMANENT SERVICES

Limitations on the District Board's Powers over Their Services. Broadly speaking the powers of district boards in respect of their services are subject to same limitations as of the municipal boards. In the first place, some classes of posts under them are held by officers borrowed from the government service, *e. g.*, the deputy and sub-deputy inspectors of school, much of the medical staff, the health officers etc. The boards have nothing to do with their appointment, posting or promotion, nor can they punish or dismiss them directly. They may only demand their transfer, and suspend them for a maximum period of three months preliminary to framing of charges and making of enquiries etc. The final decision in all these matters rests, however, with the government.¹ The salaries of some of these officers are borne entirely by the government, *e. g.*, the district officer of health, while in other cases the boards have to contribute towards their salaries and allowances. In the second place, the government have the power to prescribe qualifications and conditions of service etc. for the posts requiring technical or professional skill. Thirdly and lastly, by way of protection to the board's officials, the government have the right to hear appeals against orders of dismissal or other severe punishment in case of all officials on a monthly salary of Rs. 25 or above.²

Obligatory and Non-obligatory Posts. Under the district boards, apart from the situations held by officers of government, there is only one post that is obligatory, namely, the secretary's. The district officer of health has to be appointed in a district only if the so-called district health scheme is extended to it. Now of course all the district are under the scheme. The engineer's appointment is not obligatory, nor that of any other officer. The boards can combine any two or more posts except the secretary's. For combining secretary's post with any other, the government's sanction is needed.

Appointment, etc. Under the district board law, the board itself has to make the appointment of the secretary, the engineer, the tax-officer, the accountant etc. Other officials (except those of the education department), are appointed by

¹ D. B. Man. 1934 ed. Chap. III, paras 4 and 5.

² Section 82 Proviso.

the chairman if their monthly salary is above Rs. 25. Those with a smaller salary are appointed by the secretary, the engineer, or the district officer of health as the case may be. ³ The teachers and other officials of the education department are appointed by the education chairman. The appointing authority has in each case the power to punish and dismiss subject to the aggrieved person's right of appeal to some higher authority. Thus appeals against the orders of the secretary, the engineer etc. are heard by the chairman, and appeals against his own orders of punishment or of the board's go to the government for decision. There is a special procedure for the punishment and dismissal of the secretary, engineer, tax-officer etc., which is the same as in case of the municipal executive officers.

The Staff Cadre. The boards themselves have the power to determine what staff they need and what the salaries of such staff will be, ⁴ but lest they should err on the side of too much economy, the government can require them by rule to appoint such officials as it may think necessary. In case the boards fail to observe the rules, the government can act in default. ⁵

Promotion, Leave, Superannuation etc. The rules governing these matters are the same as in case of the municipalities.

Some Principal Officers of the District Board. The first and foremost of the district boards' officers is the secretary. His post is an obligatory one for the board. The qualifications for the post are laid down by the government and also the scales of pay. He is appointed by the board by special resolution. ⁶ The board can punish or dismiss the secretary by a resolution supported by a $\frac{2}{3}$ majority of its entire membership. The latter, however, has a right of appeal to the government. ⁷

The general position of the secretary in the administrative machinery of the district boards has already been indicated. In the first place he is the principal adviser of the chairman, and on his behalf supervises the board's entire administration excepting education. The heads of board's other departments are technically subordinate to him, and it is his duty to secure co-ordination of the work of them all. Where, as often happens under district boards, the chairman is not a man of much education, he is practically 'run' by his secretary. In the second place, the secretary has, with certain exceptions, the power to appoint and punish the

³ Section 32.

⁴ Section 81.

⁵ Section 79.

⁶ Section 70.

⁷ Section 71.

board's employees on a monthly salary below Rs. 25. Thirdly he has a long list of administrative powers to issue notices requiring people to do or refrain from doing certain things, grant licenses, charge fees, distrain and sell goods of defaulters for the satisfaction of the board's claims, make refunds etc. etc. Fourthly, it is his duty to tour about and inspect board's property and institutions, specially pounds, ferries, staging bungalows and the like. Fifthly he has important duties connected with the board's financial administration and accounts. Lastly, he has to attend the board's meetings, help the chairman there with facts and figures, and explain matters as required. The secretary may receive other powers also from the board by delegation,⁸ and with the chairman's sanction may delegate some of his own powers to any of his subordinates.⁹

The Engineer. He is the head of the board's public works department. He is appointed and punished in the same way as the secretary though his post is not an obligatory one. He supervises the construction and maintenance of board's works. He appoints the lower employees of his own department. He prepares the plans and estimates of projected works, inspects them while they are in progress, sees that the measurement book and works registers are properly maintained, and gives the completion certificate. In many boards nazul and arboriculture too form part of his charge.

The Deputy Inspector of Schools. He is the head of the education department and the secretary of the education committee. As mentioned before, he is a government servant though he works for the board. He has thus to serve two masters—a task which is not always easy. "To carry out successfully the work of a deputy inspector" says one of the education reports "a man needs to be an admirable Crichton. He must satisfy the inspector and the assistant inspector; he must placate the chairman.....(education) who may, on the one hand, know nothing about education and yet have a strong natural bent for directing all details of administration....."¹⁰

The deputy inspector is the chief inspecting officer of the board's schools, and he is assisted in this task by a number of sub-deputy inspectors. He has to tour about the district for many months and during the rest of the time has important head-quarters duties. Maintenance of a candidate's list for the teacher's appointment, selection of candidates for training, making of proposals for the appointment, posting,

⁸ Section 74.

⁹ Section 76.

¹⁰ G. R. on Publ. Ins. U. P. 1922.

transfer and promotion of teachers, suggesting the opening of new schools, supplying of equipment to schools, grant of casual leave to teachers, preparation of the educational schedule of the board's budget—these and numerous other details of educational administration pass, in the first instance, through his hands.

The Civil Surgeon. The civil surgeon is the head of the board's medical department. He differs from other government servants in the service of the board in this that his services have not been lent or transferred to the board. He is in active employ of the government all the time, but also supervises the board's medical institutions.

The civil surgeon is in immediate charge of the district or sadar hospital which until recently used to be board's institutions but have now been provincialized. The medical officers of the board's dispensaries in the district are under the civil surgeon so far as the professional side of their work is concerned. It is the duty of the civil surgeon to inspect these dispensaries quarterly and submit his inspection report to the chairman. He may suggest such improvements as he thinks necessary. He scrutinizes the medical accounts of the board and may point out any irregularities that there may be. The board must consider any communications from him and must furnish him such information about the medical administration as he may require. In all professional matters his decision is final, and even in non-professional matters affecting the management of a dispensary, if a difference arises between him and the board, it has to be referred to the inspector-general of civil hospitals for decision. He can attend and speak at the board's meetings. Where there is no separate health officer, the civil surgeon is in charge of the health work also.

District Officer of Health. The work of the health officer relates to prevention and fighting of epidemics, supervision of vaccination and collection of vital statistics, disinfection of sources of water supply and sanitary work in general. He has under him a staff of sanitary inspectors and vaccinators etc. to do the work.

The Tax Officer. The duty of this officer, where employed is to assess the tax on circumstance and property and if authorized to do so, to supervise its collection.

CHAPTER XVI

PROVINCIAL CONTROL OVER THE DISTRICT BOARDS

The provincial control over district board is exercised through the same forms and agencies as in case of municipal boards. It is not necessary, therefore, to discuss the subject here at any length. We will only note in passing, one or two minor differences of law on the matter. In the first place the budgets of all the district boards have to be referred to the commissioner, for his sanction, while in case of municipalities such sanction is needed only in case of those boards that are indebted and in respect of which an order to this effect has specially been passed by the government. Secondly, when the district board and its finance committee disagree about the budget, the power of determining the budget goes over to the government which have no such power in case of the municipalities. Thirdly, the district board's appointment of the secretary does not need the government's approval as the appointment of the municipal executive officer does. Finally, the district boards have not been grouped into classes for purposes of either the extent or agency of provincial control while the municipalities have been so grouped. Thus there is the distinction between city and non-city municipalities. In the case of the former important matters needing sanction have to go to the provincial government while in case of latter the commissioner's sanction is enough in similar cases. Also the larger municipalities deal with the commissioner direct, while the smaller ones are entrusted to the care of the collector. Their annual reports too are reviewed by different officers of the government, the commissioner or the collector, according as they belong to the higher or the lower class.

With these minor differences of detail, the district boards are subject to the same kinds and extent of provincial control as the municipalities. The government have the same wide power to make rules, ¹ to remove members and chairmen and to suspend or dissolve the board, ² control taxation, borrowing and finance generally; ³ the right of information, ⁴ of sanction, of inspection, ⁵ of action in default, ⁶

¹ Sections 26, 123, 157, 163, and 172(2) (b).

² Section 169.

³ Sections 109, 148, 161, 156, 167 etc.

⁴ Section 164 and 55.

⁵ Section 164 and 165.

⁶ Section 163.

and of suspending board's resolutions ; ⁷ the power to control board's services, ⁸ and the right to settle disputes, ⁹ and hear appeals ¹⁰ regarding specified matters to the exclusion of the jurisdiction of the courts.

The following is the list of inspecting officers appointed by the government to inspect the various branches of district board's activity :—

<i>Board's Department.</i>	<i>Inspecting Officers.</i>
1. The Revenue Department.	{ Tahsildars. Assistant Collectors. Naib-Tahsildars.
2. The Medical Department.	{ I. G. of Civil Hospitals The Civil Surgeon.
3. The Public Health Department.	{ Director of Public Health Assistant Directors of Public Health.
4. Public Works Department.	{ Superintending Engineer Executive Engineer The District Engineer.
5. Education Department	{ Director of Public Instruction Dept. Director „ „ Inspectors of Schools Assis. Inspectors of Schools.
6. Veterinary Department	{ Veterinary Adviser Superintendents Deputy Superintendents Veterinary Inspectors.

The commissioner and the collector have the power to inspect all the works and institutions of the district board generally.

⁷ Section 166.

⁸ Section Chap. on D. B. Services.

⁹ Section 68A(2) 191(1).

¹⁰ Sections H. 128, 186. etc.

CHAPTER XVII

THE FINANCE OF THE DISTRICT BOARDS

The Sources of District Board's Income. According to the prescribed budgetary heads, there are no fewer than 17 sources of the district boards ordinary income. We may, however, group them more conveniently under five heads, namely, (1) Local rates and taxes, (2) fees, tolls, and fines from the various sources, (3) income from property, (4) grants-in-aid, and (5) miscellaneous.

DISTRICT BOARD'S RATES AND TAXES

The Local Rate. Strictly speaking the district boards levy no rate in the scientific sense of the term. A rate as we have seen means a payment for some specific service rendered. They have, however, the so-called 'local rate' in force, which really is a cess on land revenue. It is paid by the land-owners but is, in no way, related to any specific service rendered to them by the district boards. The term is, therefore, a misnomer.

The basis of the assessment of the local rate is the 'annual value' of estates in the temporary settled and the acreage of cultivated land in the permanently settled parts of the province. 'Annual value' means twice the land revenue to which any estate is assessed. The local rate can be levied at the maximum at $6\frac{1}{2}$ per cent of the annual value (i.e. 13 per cent of the revenue payable to the government) or at $2\frac{1}{2}$ annas per acre in the temporarily and permanently settled districts respectively. ¹ Ever since the year 1906, however, it has been levied in practice at 5 per cent of the annual value or 2 annas per acre. Until recently it was not permissible to increase the rate beyond this pitch, unless a board had previously imposed the tax on circumstance and property. The restriction, however, was repealed in 1943. Should the rate be increased beyond 5 per cent annual value or 2 annas per acre, the land owners can recover roughly $\frac{3}{5}$ of the excess rate from the tenants and pay themselves only $\frac{2}{5}$ of it. ² So long, however, as the rate remains at its normal level, i.e., 5 per cent and 2 annas only, the whole of it is payable by the land owners only, in addition to the land revenue.

The assessment and the collection of the local rate is made by the revenue officers of the provincial government

¹ U. P. Local Rates Act, 1914, Section 3,

² D. B. Act, Sections 111 and 112.

free of charge. No remissions of the local rate are permitted except when there is a total failure of crops and the whole of land revenue has been remitted. When the revenue demand of the government rises or falls as a result of the revision of settlements, there are of course corresponding fluctuations in the amount of local rate also.

As a result of the slump that began in agricultural prices in 1929, the land revenue demands of the government had greatly to be remitted and reduced. The following settlements took into account the prevailing conditions and the revision resulted in appreciable reduction of revenue demand and hence in the local rate in many of the districts. The boards of these districts have been hit hard, by this decrease. The obvious remedy for them is to increase the percentage or the acreage rate of the local rate. This they find it difficult to do since under the district board's present composition, the land owning element is strongly represented on them and it opposes the proposal to increase its own tax-burdens.

The yield of the local rate for all the district boards in the year 1940-41 was 73·69 lakhs of rupees.

The Tax on Circumstance and Property. This tax was introduced by the D. B. Act, 1922, but after the passage of Government of India Act, 1935, it was held to be a federal source of revenue being a sort of income tax, so that it is no longer permissible for any board to levy it. The boards that had it in force before 1935 are, however, allowed to continue it till the federal legislature decides otherwise, but even they cannot widen its scope or change its rate. They can, of course, reduce or abolish it. Apart from the local rate this was the only tax which the district boards could impose, and now even this is gone.

The C. P. tax is payable by persons who have resided or carried on business in the rural areas for a minimum period of six months in the year under assessment.³ Service under the government or a local body does not amount to carrying on business, though if government or local servants reside in the rural areas they will be liable to the tax in respect of their residence. Agricultural income is exempt from the tax. Persons whose annual income is below Rs. 200 are also exempt from the tax. The rate of the tax cannot exceed 4 pies in the rupee and no single assessee can be assessed to a tax of more than Rs. 2,000 per annum. The district boards cannot levy the tax on the inhabitants of notified and town

³ D. B. Act, 1922, Section 114.

areas. Instead, they have to accept a lump contribution from the committees of these areas. The amount of contribution is settled between the chairmen of the two bodies concerned, or failing an agreement, by the commissioner of the division.

The assessment of the tax is made annually. For making it, the boards either appoint an assessing officer, or entrust the work to a committee of members. Appeals against wrong or over-assessment may be made to the district magistrate.⁴ The boards maintain a staff of tax-collectors to collect the tax.

In 1940-41 the tax was in force, in 21 districts and its yield was Rs. 6'51 lakhs.

FEES, TOLLS, FINES, ETC.

Fees. District boards receive fees from schools, medical and veterinary institutions and sundry other sources like sarais, paraos, fairs, exhibitions,⁵ etc. In 1940-41 the income from these various sources was as follows :—

School fees	...	Rs.	8'89 lakhs.
Medical fees	...	Rs.	'27 "
Public Health	...	Rs.	'16 "
Veterinary	...	Rs.	'65 "
Markets and shops	...	Rs.	'24 "
Fairs and Exhibitions	...	Rs.	1'71 "
Total		Rs.	11'92 lakhs

Ferry Tolls. The collection of tolls at the public ferries under them is farmed out by the district boards to the highest bidder at a public auction held annually for the purpose. The receipts from ferries consists, thus of the sums paid by the farmers in lieu of right to ply them. The board's income from this source for the whole of the province in 1940-41 was Rs. 6'94 lakhs.

Cattle-Pound Fines. The cattle-pounds are houses or sheds for confining the stray cattle under the provisions of the cattle Trespass Act, 1871. Before the owner can get his cattle released, he has to pay the prescribed fine. Cattle unclaimed for a specified time are auctioned out. The receipts from the pounds consist of these fines and prices from sale and amounted in 1940-41 to Rs. 6'68 lakhs.

Until 1942 all the cattle pounds were directly managed by the boards through pound-keepers in their service. In

⁴ Section 128.

⁵ Section 148.

1942, however, a farming system was introduced permitting the farming out of the pound receipts by auction to the highest bidder. This system has not, however, become universal yet.

Income from Property. District board's income from property consists of rents of buildings and lands, rent of nazul property, and sale-proceeds of movable or immovable property. In 1940-41 such income amounted to 1.41 lakhs.

GRANTS-IN-AID

Grants-in-aid from the government constitute the biggest single item of the district board revenues. In 1940-41 they amounted to 83.84 lakhs of rupees and formed 41.4 per cent of the board's total income. These grants were distributed among the various services of the board as follows :—

Education	72.87	lakhs
Medical	5.08	"
Public Health	0.06	"
Roads	3.64	"
Other purposes	1.95	"

It will be observed that the bulk of the grants, in fact more than 80 per cent are given for education. Other services of the board are only nominally aided. Education, as a matter of fact has been the only service under the boards, whose development has been undertaken by the aid of the government. Other services remain undeveloped because the government has not found it possible to help them and the board's own resources have always been inadequate.

The distribution of government grants is glaringly uneven not only among the various services of the boards, but also among the various districts. The provincial average of the grants as we have seen is 41.4 of the board's total income, but its proportion to the total income of individual district boards varies from 20 per cent (*e. g.*, in Saharanpur and Bulandshahr) to 65 per cent (*e. g.*, in Benares). "There can be no question" said the District Board Finance Committee Report (1930) "that at present the distribution of these grants rests on an almost haphazard basis, and that the great variation between the sums allotted to the different districts cannot be justified on any logical grounds." ⁶ The explanation of this state of affairs is to be found in past history. The original purpose of the grants was to produce a balance between the income of the various boards as it stood in 1885, and their expenditure. The result was that the districts with developed services got more than the backward ones. The original inequity has never been redressed yet.

⁶ D. B. Finance Committee Report, 1930 vide U. P. Gazette, 1930, Part VII, p. 1023.

MISCELLANEOUS INCOME

Under this head come such items of income as sums realised from the sale of old stores, fines (other than pound and sanitary), contributions from local bodies and private persons etc. In 1940-41 income from this source amounted to 1·77 lakhs of rupees.

The Total Income of the District Boards. The total income of the district boards, the main items of which we have explained above amounted in 1940-41 to Rs. 2 crores or 20 millions of rupees. Its incidence per head of population was 7 annas, 10 pies only. It was made up of as follows :—

	IN LAKHS OF RUPEES
1. Government grants	... 83·84
2. Land revenue	... '47
3. Local rates	... 73·69
4. Tax on circumstance and property	... 6·51
5. Pounds	... 6·68
6. Ferries	... 6·94
7. Education	... 9·73
8. Medical	... 4·11
9. Public Health	... '16
10. Veterinary	... '65
11. Markets and shops	... '24
12. Fairs and exhibitions	... 1·71
13. Receipts from property	... 1·45
14. Agriculture and arboriculture	... 1·69
15. Interest	... '35
16. Miscellaneous	... 1·77
Total	... 200·06

DISTRICT BOARD'S EXPENDITURE

The total expenditure of the district boards in the year 1940-41 was Rs. 200·08 lakhs and it was distributed as follows :—

SERVICE	EXPENDITURE IN LAKHS OF RUPEES
1. Education	... 113·68
2. Medical	... 21·82
3. Public Health	... 2·99
4. Vaccination	... 3·04

5. Public Works	...	36'95
6. Veterinary	...	3'34
7. Pounds	...	4'13
8. Fairs and Exhibitions	...	1'18
9. Agriculture and arboriculture	...	'72
10. General Administration and tax collection	...	10'43
11. Miscellaneous	...	1'18
12. Superannuation	...	'88
13. Refund	...	'28
Total		200'88

Education is the biggest single item of expenditure accounting for about 57 per cent of board's total disbursements. It is the only service which has been aided by the government more or less systematically, and for that reason it is the only one which has been developed to some extent. It must not, however, be imagined that the educational expenditure is adequate. The province has not yet been able to provide for the compulsory primary education of children and it is estimated that for doing that the expenditure on education will have to be 6 or 7 times of what it is now.

The expenditure on medical relief, public health and vaccination accounts for 13'4 per cent of the total only. Needless to say, it is grossly inadequate. The district boards maintain 431 allopathic and 407 indigenous dispensaries over an area of 106248 sq. miles and for a population of 44 millions. It means one dispensary for about 126 sq. miles of area and 55000 of people. The sanitary and health service for the rural areas is extremely poor. It means no more than vaccination, occasional permanganation of wells, and a few inoculations when epidemics of cholera or plague break out. There is little provision to prevent adulteration of eatables, for maternity and child welfare and scores of other health services familiar to the civilized world.

The Public Works expenditure of the district boards has been steadily falling during the last 20 years. It amounted to 61'80 lakhs of rupees in 1921-2, 33'54 lakhs in 1936-7 and 36'95 lakhs in 1940-41. The bulk of this expenditure is on the construction and maintenance of roads. The fall, therefore, means less money spent on roads and consequently a bad state of repairs for them. "Excepting a few districts" says the report on the working of the district boards in the U. P. for 1940-41 "the condition of roads was unsatisfactory."

These three services—Education, public health (including medical relief and vaccination) and public works account for about 89 per cent of the district board's total expenditure. The remaining 11 per cent of it is devoted to a number of minor items which do not call for comment.

The Budget Making. The district board's budget has to be prepared and passed in a form prescribed by the rules. The initial stages of the budget preparation are gone through in the same way as under the municipal boards, the different departments preparing the estimates of their income and expenditure for the coming year. According to the rules the estimates for the next financial year must be ready by the end of October in the current year, and by 13th November the budget must be provisionally approved. Copies of it have to be sent to the collector, the divisional engineer, the civil surgeon, the inspector of schools etc., so as to reach them by November 20. These officers must return these copies to the board by December 20 with such suggestions as they think it fit to make. The final budget meeting of the board must be held as soon as possible after January 1 to pass the budget by special resolution. The board has to consider the suggestions received from the above-mentioned officers of the government, but it may or may not adopt them. Finally the budget has to be sent to the commissioner of the division for sanction. Such sanction may be refused if there is no satisfactory provision for the prescribed minimum balance, or proper utilization of government grants, or meeting of the board's debt or other legal obligations, and in that case the board will have to amend the budget suitably.⁷ It should be noted that the budget of every district board requires commissioner's approval whether the board is indebted or not, but the commissioner's powers of interference are limited to secure certain legally prescribed objects only so as to safeguard the financial credit and stability of the boards.

The Role of the Finance Committee in Budget Making. We mentioned above that an amending Act of 1934 established for the district board a statutory finance committee consisting of board's chairman as its ex-officio chairman and 6 other members appointed by special resolution. The duty of getting the budget prepared is laid on this committee. When the budget framed by this committee is placed before the board, the latter may either pass it as a whole, or reject it as a whole, or modify it by reducing (but not increasing) any items.⁸ If the board rejects the budget or modifies it

⁷ Section 161.

in a way which is unacceptable to the finance committee, the latter will submit it to the board once again either in its original form or with such amendments as it may think necessary.⁹ This time, the board must either pass the budget as a whole or reject it as a whole. It cannot amend it.¹⁰ If it passes the budget there is an end of the matter, but if it rejects it, the chairman must submit to the government the various successive drafts of the budget with other connected papers, and then the government may accept any of the drafts, *i.e.*, either the original draft of the finance committee, or the one as amended by the board, or the one resubmitted to the board by the committee, or any of these with such modifications as may be necessary, or they may make an entirely new budget for the board. The decision of the government is final and binding on the board.¹¹ In case of the failure of the board to pass the budget within prescribed time, the government have power of acting in default. They may obtain the necessary information from the chairman and impose on the board a budget of their own making.¹²

Alterations in the budget, if it has been passed by agreement between the board and the finance committee, may be made by similar agreement between the two. If the two do not agree, the matter has to be referred to the government for decision. A budget framed by the government, however, can be altered by the government only.¹³

The essence of this procedure is to make an agreement between the board and the finance committee a condition precedent of the exercise of the budgetary powers by them. In absence of such agreement or in case of undue delay, they forfeit this valuable power which passes over to the government. The object of introducing this procedure was to ensure that the board's budget is properly made and passed in time. For many years before 1934 there used to be complaints that firstly the board's budgets were often passed after inordinate delay and secondly that the budgets when introduced were so drastically changed and mutilated by the irresponsible amendments made by the members that in their final form they were often utterly devoid of any financial policy or system. A small finance committee, it was hoped would get the budget scientifically made, and the necessity for the board to secure its concurrence and the limiting of

⁹ Section 158(3) (c).

¹⁰ Section 158 (3) (d).

¹¹ Section 158 (3) (e).

¹² Section 158 (3) (f).

¹³ Section 158 (4).

its power to making reductions only would save the budget from mutilation. Obstruction or delay were penalized by giving to the government the power of acting in default.

The Revised Budget. A revised budget for the district board must be prepared and passed as soon as possible after October 1 of the current year. The procedure for its passage is the same as for the original budget.¹⁴

Borrowing. District Board borrowing is governed by the same law and rules as municipal borrowing. In actual practice, however, district boards are allowed to borrow very rarely. The amount of loans taken by them in 1940-1 for instance was only Rs. 115,000 for the whole of the province and in the previous year only Rs. 30,000. The reason for this is that district boards at present do not have any public utilities like water-works or electric works which they may finance advantageously by loans.

Audit and Surcharge. The rules for the audit of district board accounts are the same as in case of municipalities. The auditors may disallow expenditure and make surcharge in the same way. The rules of account-keeping for the district boards are similar to those of municipalities.

¹⁴ Section 159.

CHAPTER XVIII

SOME MORE IMPORTANT DISTRICT BOARD SERVICES

As mentioned in the chapter on District Board Finance the three most important of the board's services in order of their importance are education, public works and public health. We will discuss here briefly what the district boards do in connection with these and some other services of lesser importance.

EDUCATION

Education absorbs more than half of the district board's total expenditure and the school teachers constitute the most numerous and in many ways the most influential employees. As we have seen, the education administration is in the hands of an autonomous statutory education committee.

The Educational Powers of the District Boards. The educational jurisdiction of the district boards or to put it more correctly, of the education committees extends to vernacular primary and secondary education only. They have nothing to do with the so-called Anglo-Vernacular or English education.¹ The academic side of vernacular education is under the control of the provincial department of education which prescribes the qualification for the teachers, courses of study and text books, the hours of school work and holidays, stages of instruction and examination, and similar other matters. The boards control the administrative side of education such as the opening, location and closing of schools (with the approval of inspector of schools in case of vernacular middle schools); appointment, control, posting and transfer of teachers; construction and maintenance of school buildings and supply of the necessary equipment, inspection etc.

Educational Finance. Education is heavily aided by government grants. Of the total educational expenditure of 113 lakhs in 1940-41 about 73 lakhs came from government grants and only 40 lakhs from board's own funds. For this reason, the government controls educational finance of the district boards rather rigidly. For every board minima of educational expenditure have been prescribed under 7 heads, namely, vernacular middle schools, ordinary primary schools, compulsory primary education, Islamia schools and maktabas, depressed class education, female edu-

¹ English may, however, be taught as an optional in some of their middle schools.

cation, and industrial education. Each board has to provide in its budget annually under each of these heads an amount not less than the minimum prescribed. Any amounts unspent under any of the heads are transferred to the education fund and can be spent only for non-recurring items, e.g., construction of new buildings etc. Of late, the government have started the practice of resuming the unspent educational balances.

Types of the Board's Schools. Board's schools are of two types—primary and middle. The primary schools have the infant classes and classes I to IV while the middle schools have classes V to VII. The primary schools themselves are either of the ordinary or special types. The ordinary primary schools are those which are meant for all classes and kinds of scholars generally. The special or segregate primary schools are meant for special classes, communities or sexes. Among such schools may be mentioned the girls schools, the Islamia schools, and the depressed class schools. Separate girls' schools came to exist because of the opposition of the people to co-education even at the primary stage. Girls are, however, allowed to read in the boys' schools upto the age of 10 and boys may read in girls' schools upto the age of 8.

The Islamia schools came into existence because of the complaint of Muslims that in the ordinary primary schools, the teachers of their community are rather few and that the Urdu language and script in them were consequently neglected. The speciality of the Islamia school is that the staff is entirely Mohammadan and the teaching is through Urdu. Non-Muslim students can attend them just as the Muslim students can attend the ordinary schools.

The depressed class schools were established because of the prejudice of the higher caste people in allowing their children to sit with the children of depressed classes. The rule for these as well as the Islamia schools is that where an attendance of 20 scholars of the community concerned can be guaranteed, a school may be opened. Financial considerations have prevented the observance of this rule literally and the special schools are found only in a few big centres of the population of the communities concerned.

The middle schools carry the instruction of the primary schools a stage farther. The usual subjects taught are the vernaculars of the province, mathematics, history, geography, and sometimes drawing. In a few selected schools English, manual training, agriculture, and rural knowledge have been added as optionals.

The total number of district boards' schools of all kinds in 1940-41 was 14224 and the total number of scholars (including 4789 aided schools) 12·87 lakhs. This works out at 29·74 scholars per thousand of population. Assuming the number of adults to be half of the total population, and the number of children of school going age to be half of the adult population, the number of children at school ought to be 250 per thousand. It means that out of every 250 children of school going age only 30 or less than $\frac{1}{8}$ are actually at school.

Compulsory Education. After the introduction of the political reforms of 1919 the government adopted a policy of quick expansion of primary education with a view to produce an educated electorate as soon as possible. After a decade of the working of the expansion programmes, it was discovered that though the growth of expenditure since 1919 was considerable, the increase in the number of scholars did not keep pace with it. Investigation into the cause of this showed that on its onward march, primary education had reached a stage where it had to deal with people who did not want to send their children to schools, or who at any event did not wish to keep them there till they reached the primary standard and acquired permanent literacy. The obvious remedy for this was the introduction of compulsion. Accordingly the District Boards Primary Education Act 1926 was passed. This is a permissive act and empowers a board, subject to the sanction of the provincial government, to make primary education compulsory in the whole or part of its area. Hitherto 27 boards have taken advantage to this act to introduce compulsion in selected parts of their area. Financial stringency has held up further progress.

The Teachers and the Teaching. District board teachers are recruited from those who have passed the Vernacular final examination and have undergone training. For primary school teachers, there is a one year's training course known as the P. T. C. or the primary teacher's certificate. For Vernacular Middle Schools, teachers have to take a 2 years' training at the normal schools maintained by the government. The vast majority of board's teachers are trained. Of late, there has begun the practice of selecting a few high school passed scholars for the normal school training.

While one may find here and there a few able and well informed men among district board teachers, the generality of them consists of those who bade good bye to all study when they took the teacher's certificate. The result is that teaching in the board's school takes the form of a dull routine, devoid of all freshness and intellectual zest.

The salaries of the teachers are so low ² that they cannot afford to buy books for self-improvement and libraries in the rural areas are non-existent. The need of the situation is to improve the salaries to attract better qualified men to the teacherships.

The vernacular middle schools have about them a tradition of hard work and that succeeds in giving to the boys in these schools a more or less firm grounding in the subjects they study. At the primary stage, however, things are much worse. The teaching in the primary schools is neither attractive nor diligent.

Of late the so-called basic system of education has been introduced in some of the board's primary schools. This system is based on the activity principle of learning through doing. The teachers in these schools are been given a short course of training in the new method, and the basic schools are said to be working well. Many of the teachers, however, look upon the thing simply as a "fad" and they dislike the demand that the new system makes upon them for greater exertion and more active interest. Men whose constant anxiety is to keep the woolf from the door can hardly be expected to do better.

PUBLIC WORKS

Upto 1924 District Board's roads and buildings, with the exception of very minor ones, were looked after by the provincial public works department. The District Boards Act, 1922, however contemplated their transfer to the board's own agency and this was done in 1924.

Public Works Powers of the District Board. At present the public works powers of the district boards extend to all the works under their charge. Legally they can undertake works of water-supply, drainage, communications, irrigation etc., ³, but in practice they confine themselves to the local roads and buildings only.

The public works staff of the board may consist of an engineer, one or more overseers or sub-overseers and the

² The present scales of pay are the following :—

Primary Schools—30 per cent of teachers on Rs. 17 p. m.

50 per cent of teachers on Rs. 19 p. m.

20 per cent of teachers on Rs. 20 p. m.

Head teachers from Rs. 22 to Rs. 30 a month.

Vernacular Middle Schools—30 per cent of teachers on Rs. 25 p. m.

50 per cent of teachers on Rs. 30 p. m.

20 per cent of teachers on Rs. 35 p. m.

Head Masters Rs. 40 to Rs. 60 p. m.

³ D. B. Act, 1922, Section 91 (e) 2 (g).

necessary subordinate and clerical employees. In 1935 the U. P. Unemployment Committee found that only 15 boards out of 48 employed qualified engineers and the rest were content with overseers or sub-overseers only.⁴ The difficulty of the boards has been that they have, in many cases, found it beyond their means to maintain a properly qualified engineering staff, and in many districts there is no sufficient work also for such a staff if employed.

The district board has the power of sanctioning works costing any amounts. No administrative sanction of any outside authority is needed. In case a work is financed from grants or loan, the government may require that the agency of public works department or public health engineering department shall be used both for the preparation of plans and estimates, and the execution of the work.⁵ When this is done, the board has to pay to the public works department or public health department fees according to a prescribed scale. Plans of works costing more than Rs. 5,000 have to be approved by appropriate officials of the provincial government, e.g., in case of school buildings the approval of inspector of schools and in case of dispensaries the approval of the Inspector General of Civil hospitals is needed.⁶

The divisional engineer and his deputy are authorised to inspect annually or more often the more important of the boards' roads and bridges. It is the duty of the commissioner to see that adequate action is taken by the board on their inspection report.⁷ The government may require a board to spend a specified sum on the repairs of a particular road or building within a given period.⁸

The sanction of the board by resolution is required for every contract of a value exceeding Rs. 10,000.⁹ Tenders must be invited by public notice for all contracts exceeding Rs. 5,000 in value.¹⁰

The Condition of District Board's Road and Buildings. It is a well recognized fact that the condition of the district boards' roads and buildings is unsatisfactory. There are many causes for this. In the first place, the public works expenditure of the boards particularly that on roads has

⁴ Report of U. P. Un-employment Committee 1935, p. 35.

⁵ D. B. Public Works Rules No. 8.

⁶ Ibid No. 8.

⁷ Rule 15.

⁸ Rule 14 (2).

⁹ Rule 18A.

¹⁰ Rule 18.

been falling during the last several years so that it is totally inadequate. The annual expenditure on the maintenance of provincial roads by the P. W. D. is Rs. 700 per mile while that of district boards on their roads is only Rs. 421 per mile.¹¹ Secondly since 1919 motor traffic on district board's roads has considerably increased. These roads were not designed to stand heavy or fast traffic and the result has been that they have gone to pieces. In other countries, the central authority has helped the local bodies financially to transform the roads to meet the wear and tear of the new kind of traffic. In case of district boards' roads, not even the old level of expenditure has been maintained. Lastly the boards' public works departments have neither been efficient nor very scrupulous. "Deterioration of roads" says one of the recent reports "was largely due to the inefficient condition of the public works department of the boards. The roads would not have been so bad as they were, if much of the money meant to be spent on them by the boards had not been wasted owing to lack of systematic programmes of maintenance and of proper supervision by the public works staff. Evidence of much negligence is furnished by the many irregularities of a more or less serious nature which were noticed.....in the public works accounts of..... boards."¹² It is the same story about the buildings. "Many of the buildings put up" says the General Report on Public Instruction in U. P. for 1927-32 "were entrusted to inefficient contractors and hardly supervised at all, so that some are already in need of repair and others have collapsed."

MEDICAL RELIEF

Medical Powers of the Boards. Under section 91(c) of the District Boards Act, 1922, it is the duty to the boards to make reasonable provision for the establishment, management, maintenance and visiting of hospitals and dispensaries..... For opening and closing or transfer of the dispensaries, the boards must obtain the approval of the Inspector-General of Civil Hospitals. Financial assistance from the government depends on this.¹³

Types of the Boards' Dispensaries. District Boards' dispensaries are of two types, namely, western or allopathic and indigenous. The latter are again of two kinds Ayurvedic or Unani. Until recently the district headquarters' hospitals known as the Sadar Hospitals were also under district board's charge, but now they have been provincialized. The boards

¹¹ Report on Working on D. B. in U. P. 1934-5, p. 39.

¹² Report on Working of District Board, U. P., 1933-4, p. 8.

¹³ U. P. Medical Manual, para 23A.

may also subsidize medical practitioners who settle down and practice in the rural areas, but this scheme has not made much headway.

The Medical Staff. The allopathic dispensaries of the boards are usually under the charge of medical licentiates and the indigenous ones under qualified Vaid and Hakims. Each dispensary has one or more compounders and the requisite menial staff. The pay of the allopathic doctors is much higher than of Vaid and Hakims. Many of the senior doctors of the boards' dispensaries are in government service, but now the boards are allowed to make their own appointments as vacancies occur.

The Efficiency of the Boards' Dispensaries. We have already mentioned that the number of dispensaries maintained by the district boards is grossly inadequate for the needs of the rural population. Even the existing dispensaries are poorly equipped particularly in the matter of medicine. The average expenditure of a district board dispensary on drugs is Rs. 840 annually and a former inspector general of civil hospitals admitted that this was grossly inadequate.¹⁴ It was quite common even in the prewar days to find these dispensaries short of even such a common drug as quinine at the height of the malaria season.

In 1929 the government made a scheme to double the number of allopathic dispensaries in the province. The scheme was to be financed by a loan taken by the boards towards the repayment of which they would be assisted by an annual grant from the government. The economic depression and then the war led to the postponement of the scheme, indefinitely.

PUBLIC HEALTH

There was no systematic public health policy for the boards until recently. The expenditure needed for financing public health activities for the rural areas was so great and the funds available for the purpose so small that it was difficult to see what could be done. For many years, therefore, district boards found it impossible to spend even the small amounts available to them for public health. Vaccination for small pox was the only activity pursued more or less systematically, but even this was not compulsory for the rural areas.

After many trials and errors a tangible scheme of public health work for the boards was formulated in 1922. It was called the district health scheme. Under it, a skeleton organiza-

¹⁴ Col. Proctor's speech, U. P. L. C. P., Vol. 62, pp. 659-60.

tion consisting of a district medical officer of health with one assistant and a sanitary inspector for each of the tahsils, was created in each district. The salary of the superior staff is contributed by the government and of the subordinate staff by the board. The scheme was first introduced in 3 districts only, but by now (1945) it has been extended to all the districts.

The duties of the district officer of health under this scheme consist of supervision of vaccination, collection of vital statistics, sanitary arrangements at schools and public fairs, hygiene propaganda and control of epidemics. The actual field work is done by the sanitary inspectors, who are expected to tour about the villages and persuade the people to protect and cleans the wells, keep the village site tidy and observe simple rules of health. In the town and bazaars, they try to check unhealthy methods of shop-keeping particularly in articles like sweet-meats. The sanitary staff is, however, too small to make its presence felt in the rural areas.

Public health expenditure including vaccination has been only about Rs. 6 lakhs per year for all the district boards in the province. Of this, about 3 lakhs is on vaccination and the rest on other health activities. Half of this amount (i. e. Rs. 1½ lakh) is spent on the salary of the staff and thus only Rs. 1½ lakh are available for fighting epidemics, improving water supply, and carrying on the other health activities. This works out at 15 pies per head of population per annum.

The crying need of the rural areas is a protected water supply and a vigorous campaign against the epidemics of malaria, small pox, cholera, and plague. Maternity and child welfare is another health service badly needed. All that, however, is a question of extra expenditure which the district boards with their present resources cannot provide.

OTHER SERVICES

Improvement of agriculture industries and live stock is one of the most important duties of the boards, but they do precious little for these things. For agricultural and industrial improvement, they do no more than hold occasional fairs and exhibitions. Supply of improved seeds, implements, manures etc. find a mention only among their prescribed budgetary heads. For the improvement of live stock, they keep in a few places stud bulls, buffaloes or stallions, but these are not numerous enough to be available for the improvement of the breed in all or even a large

number of villages. To treat the cattle for diseases and to take measures against epidemics like foot and mouth diseases a few veterinary hospitals are maintained.

Another service deserving mention is arboriculture which means planting and care of trees on roads sides and other public places. Cattle-pounds and ferries also may be regarded as a kind of service provided for the people. Both these are, however, regarded more as a source of income for the boards than a convenience for the public. Ferries have always been farmed out, the district boards doing no more than fixing the rates of toll to be charged and laying down certain rules about the serviceable condition of boats etc. for public safety. The pounds were directly managed by the boards until recently, but now farming out of them also has begun.

PART V

THE TOWN AREAS

CHAPTER XIX

THE TOWN AREAS

How Created. The provincial government may, by notification in the gazette, declare any town, village, suburb or bazaar to be a town area. A town area may be created by uniting two or more centres of population. The government can define and alter the boundaries of town areas by similar notification and can also abolish them. An agricultural village cannot be declared to be a town area or a part of it.¹ The government have the final power of decision whether a centre of population is or is not an agricultural village and when they issue a notification declaring a place to be a town area, that is a conclusive proof that it is not an agricultural village. The legal implication of this provision is that the presumption of the zamindar's ownership does not apply to the land situated within town area limits.

The Constitution of the Town Committee. The governing body of the town area is called the town committee.² It consists of a chairman, from 5 to 7 elected members as prescribed by the government in each case, and one representative of the depressed classes appointed by the district magistrate. Where there is an appreciable number of Christians, Parsis or Sikhs, they too may be given one representative appointed by the district magistrate.³

Of the elected members, a certain minimum number is reserved for the minority community (Hindus or Muslim) of the town area, according to the proportion of the numbers of that community to the total population. However small the proportion of the minority to the total population is, it must have at least one member if there be a candidate available from it. Where the proportion of the minority to the total population is more than 24 per cent, the number of seats reserved for it is according to the following scale :—⁴

¹ U. P. Town Areas Act, Section 1.

² Section 5.

³ Section 5 (2) (a) (b) (c) and (d).

⁴ Section 5, 3 (a) (b) (c) and (d).

Number of Elected Members on the Committee.	Proportion of the Minority to the Total population of the Town Area.	Minimum number of seats reserved for the Minority.
5	Not less than 25 per cent.	At least 2.
6	{ More than 24 per cent but less than 48 per cent.....	At least 2.
	{ Not less than 48 per cent	At least 3.
7	{ More than 24 per cent but less than 40 per cent.....	At least 2.
	{ Not less than 40 per cent	At least 3.

It should be noted that the above reservation for the minority community is the minimum in each case. Subject to this reservation, the election of the members of the town area committee is by joint electorate and it is permissible for the minority community to contest and capture more seats than are reserved for it. If there are fewer candidates from the minority for it, then as many of them as there are will be deemed elected, and the remaining seats may go to the other community.

The Term. The term of the members and of the chairman is four years. Those elected to fill a casual vacancy have the residue of the term of their outgoing predecessor. The government may, however, extend or curtail the term of the committee for the purpose of making a change in its composition or holding an election. A member or chairman may be removed by the commissioner before the completion of his term for neglect of duty or abuse of power. His term may also be cut short by his becoming subject to any of the prescribed disqualifications.⁵

Qualifications for Voters. The voter's qualifications are prescribed by the government by rule.⁶ The congress ministry amended the rules in 1938 to introduce adult

⁵ Sections 6, 7 and 7A.

⁶ Section 39 f.

suffrage so that any person of age can be a voter provided that he is free from the following disqualifications, namely, being

- (a) of less than 21 years of age, or
- (b) an alien,
- (c) of unsound mind,
- (d) an insolvent,
- (e) subject to an order for finding security for good behaviour under Sec. 109 or 110 of the criminal procedure code provided that a period of 5 years has not elapsed from the date of the order.
- (f) a defaulter in payment of the dues to the town area within the month in which they become due. ⁷

Qualification for Members And Chairmen. Every qualified voter who is duly enrolled can be a candidate for membership provided he is free from the prescribed disqualifications which are

- (1) being convicted of an offence implying moral turpitude, or being dismissed from government service for conduct involving moral turpitude,
- (2) being debarred from legal practice by order of a competent authority,
- (3) holding any place of profit under the town committee,
- (4) inability to read and write one of the vernaculars or English, and
- (5) being in government service.

The first two disqualifications are removable by the order of the government. ⁸

Method of Election. The method of election is the general ticket system, *i. e.*, each voter has as many votes as the number of members to be elected. There is joint electorate, members of all communities voting together.

The Chairman. The chairman of the Town Area Committee must be a qualified voter, and he is elected directly, *i. e.*, by the voters simultaneously with the general election of the members of the town committee. Casual vacancies are also filled by election within one month of their occurrence. ⁹ His term is the same as of the members, *i. e.*, four years. There is no provision for his removal by the members of the committee by no-confidence motions, though the commissioner with the government's sanction can remove him for neglect of duty or abuse of power. ¹⁰

⁷ Section (7) (i).

⁸ Section 7 (2).

⁹ Section 8A.

¹⁰ Section 7A

The powers and the duties of the chairman are to convene and preside at the meetings of the committee, to maintain a record of proceedings, and to supervise the administration and the finances of the town area generally.¹¹ He has the power to appoint and control the town area employees subject to certain safeguards.

There is also a vice-chairman elected annually by the members of the committee. He discharges the duties of the chairman in his absence.

The Salaried Employees of the Town Area. The chairman, the vice-chairman, and the members of the town area serve in an honorary capacity, but it has also a few salaried employees to do the routine work. The most important among these is the bakhshi who is appointed by the chairman subject to the approval of the district magistrate.¹² The bakhshi is a sort of town-clerk keeping all the records, doing clerical work, and keeping an eye on town area administration and the work of its employees generally.

Besides the Bakshi there may be a staff of tax-collectors, and there is always a staff of sweepers, lamp lighters, peons etc. The committee prepares its own establishment list subject to the district magistrate's approval. The district magistrate can require such alterations in the list as he thinks fit.¹³

The power of appointment is vested in the chairman.¹⁴ He can also punish and dismiss the town servants, but confirmation by the district magistrate is required for orders of dismissal of employees whose salary exceeds Rs. 15 a month. The district magistrate gives them an opportunity to represent their case.¹⁵

The committee can employ such temporary staff as it requires and may fix the remuneration for it.

The Functions and Duties of the Town Areas. The principal duties of the town area relate to the cleansing and lighting of streets and other public places, paving and maintenance of public streets and parks (other than those maintained by the government or the district boards), drainage, repair of sources of water-supply, and the improvement of the town generally.¹⁶ It may also provide (and must pro-

¹¹ Section 8A (7).

¹² Section 10 (1).

¹³ Section 9 (i) and (3).

¹⁴ Section 10 (i).

¹⁵ Section 10 (2).

¹⁶ Section 23 (d) (e) d (f).

vide if required by the district magistrate) for the regulation of offensive trades and callings, disposal of corpses by burning or burial, repair or removal of dangerous buildings, prohibition of storage of more than a fixed quantity of petroleum or kerosene oil in any building, and the regulation of the prohibition of any kind of traffic.¹⁷ With the previous sanction of the district magistrate, it may regulate slaughter houses, and license the sale of meat.¹⁸ The committee may also by general or special order may, and if advised by the district medical officer of health, must provide for protection from pollution of sources of drinking water supply, prohibition of removal of water for drinking purposes from any contaminated source, prohibition of deposit of manure or refuse in a manner prejudicial to public health, removal of noxious vegetation, condemnation and destruction of food unfit for human consumption, registration of births and deaths, training and registration of midwives etc.¹⁹ It may name the streets and number the houses.²⁰

The Finance of the Town Areas. The town areas obtain their income from taxes, sale-proceeds of sweepings and refuse, rent and other income from nazul, and contributions from the district board or private persons. Of these, the taxes levied by them contribute the bulk of their income.

The town areas can levy one of the two alternative taxes, namely, either a tax on circumstance and property or a tax on the annual value of the house and lands.

As regards the tax on circumstance and property, it is subject to certain maxima both as to its rate and the total annual demand from any single assessee. In districts where the district board has imposed the C. P. tax, the maximum annual demand from any single assessee cannot exceed Rs. 2,000. Even this maximum is permissible only in respect of non-agricultural income of the assessee. In district where the district board C. P. tax is not levied, and in all district where the tax is levied in respect of agricultural income, the maximum annual demand from a single assessee cannot exceed Rs. 90. So, the maximum demand from any assessee is lower in respect of agricultural incomes than in respect of non-agricultural ones. The reason is that agricultural income is already subject to payment of rent, revenue and cesses. The maximum demand even on non-agricultural incomes is lower in these districts where

¹⁷ Section 26 (c) to (e).

¹⁸ Section 26 (f) to (h).

¹⁹ Section 27.

²⁰ Section 30.

the district board C. P. tax is not in force than the districts in which it is in force. The reason for this is that in the latter districts the town areas have to pay to the district boards an agreed lump sum in lieu of imposition by the latter of the C. P. tax within the town area limits. The rate of the circumstance and property tax levied by the town areas cannot exceed 5 pies in the rupee on agricultural incomes and 9 pies in the rupee on other income. The question whether an income is agricultural or otherwise is decided by the district magistrate and his decision is final. ²¹

As regards the other alternative, the tax on houses and lands, it can be levied at not more than $6\frac{1}{2}$ per cent of the annual value or rental.

The assessment of either of these taxes is made by the town area committee, but it is subject to the confirmation of the district magistrate. ²² The committee first has to determine the amount to be raised for the expenditure of the town area and report to the district magistrate, and then it proceeds to distribute the amount among the assesseees according to their circumstance and property or the annual value of their houses. Before confirming it, the district magistrate may require such alterations in the assessment list as he deems fit. The assessment list is revised when required by the district magistrate, but in practice annually. ²³

An appeal against assessment or levy of any tax lies to the district magistrate or some other magistrate designated by him for the purpose. The decision of the appellate authority is final. ²⁴

Increase or decrease in taxation by the committee must secure the concurrence of the district magistrate. In case of difference of opinion between the two, the commissioner's decision is final. ²⁵

Budget making in the town area is a simple affair. The objects of expenditure are more or less fixed or constant, e. g., cleansing, lighting street paving, salary of the staff, and contribution to the district board where it imposes the C. P. tax. The amount raised by taxation is determined in the light of these needs. Few town areas are progressive or ambitious in the matter of services to be organised for the public and so to a large extent both the income and ex-

²¹ Section 14.

²² Section 15 (3).

²³ Section 15 (2).

²⁴ Section 18.

²⁵ Section 14 Proviso (v).

penditure of town areas are standardized and show little variation from year to year.

Higher Control Over the Town Areas. The town areas are subject to the higher control of the provincial government, the commissioner and the district magistrate in the same way as the municipalities and the district boards, though to a greater extent.

The principal controlling authority over the Town Areas is the district magistrate, though in a few cases the commissioner and the provincial government also come into the picture.

The control by the provincial government relates to the constitution or abolition of the town areas by notification ²⁶ prescribing the number of elected members (Sec. 2b), making of rules for the due application of the Town Areas Act, ²⁷ transfer to the town area, of the powers vested under the Town Areas Act in the district magistrate ²⁸ extension to the town area of any enactments applicable to the municipalities ²⁹ and supersession of the town area committee in case of persistent default or abuse of power. ³⁰

The commissioner can remove the members and chairmen of town area committees for neglect of duty or abuse of power, ³¹ decide, if necessary, the contribution from the town area to the district board in lieu of the C. P. tax, and settle the differences between the committee and the district magistrate over a proposal to increase or decrease taxation. ³²

The district magistrate's powers of control are very many. He nominates the representatives of scheduled castes, Christians etc. to the town committee, ³³ accepts the resignations of members and chairmen, approves the appointment of the bakshi, confirms the dismissals of town area servants on a monthly salary of more than Rs. 15 ³⁴ approves the establishment list and the assessment list and orders the revision thereof, orders exemptions from taxation, hears appeals against assessment, orders the committee to assume

²⁶ Section 3.

²⁷ Section 39.

²⁸ Section 37.

²⁹ Section 38.

³⁰ Section 36.

³¹ Section 7-A.

³² Sections 14 last proviso.

³³ Sections 5 (c) and (d).

³⁴ Section 10.

extra powers and duties under section 26, hears appeals against certain sanitary orders of the town area, assumes the functions of the town committee when it is in default or under supersession, and prohibits the execution of orders or resolutions of the committee if they are likely to lead to a breach of peace or encroach on the legal rights and liberties of the people. ³⁵

The district magistrate may appoint the officer-in-charge of the sub-division in which a town area is situated, to be its town magistrate, and may delegate to him any of his powers and duties subject to such conditions or restrictions as he thinks necessary. His powers under sec. 39A for prohibition of execution of committee's resolutions, however, cannot be delegated and must be exercised by the district magistrate personally. ³⁶

³⁵ Section 39-A.

³⁶ Section 40.

PART VI

THE VILLAGE PANCHAYATS

CHAPTER XX

THE VILLAGE PANCHAYATS

Conditions for the Establishment of the Panchayat in a Village. Under the U. P. Village Panchayats Act, the collector of the district is charged with the duty of selecting the villages for the establishment of Panchayats. Before selecting a village for the purpose, he must satisfy himself that (a) the residents are generally in favour of the panchayats' establishment, (b) the conditions in the village are not likely to prevent its satisfactory working, i.e., there are no communal, factional, or caste disputes, and (c) that suitable persons are available for being appointed panches and the sarpanch. ¹ Ordinarily the panchayat must comprise a single village, but it may also have under it two or more neighbouring villages where necessary. In such a case, the distance among the constituent villages should not be more than 3 miles except in the hilly and other sparsely populated tracts.

The Constitution of the Panchayats. A panchayat consists of 5 to 7 panches as determined by the collector. ² The panches are appointed by the collector after ascertaining the wishes of the inhabitants by a local enquiry through an officer not below the rank of a tahsildar. ³ Only an inhabitant of the panchayat circle can be its member. Females, insolvent persons, persons under 25 years of age, employees of the government or the local bodies, and persons convicted of an offence within the five preceding years are ineligible for the membership of the panchayats. At least two of the panches must be able to read and write. Where two or more villages are included in the panchayat circle, at least one panch from each village must be appointed if a suitable person is available for the purpose. ⁴

The term of the panchayat is 3 years. Members are eligible for reappointment any number of times. Casual vacancies may be filled up by the collector or left unfilled as he deems fit. ⁵

The Sarpanch and His Duties. In each panchayat, one panch is appointed sarpanch. He must be able to read and

¹ Rules made under U. P. Village P. Act No. 1.

² U. P. V. P. Act, Section 5.

³ Rule No. 6.

⁴ Rules 4 to 7.

⁵ Rules 8 and 9.

write, and his nomination is made after ascertaining local opinion as well as the opinion of the panches. His term is the term of the panchayat.

The duties of the Sarpanch are (a) presiding at the meetings of the Panchayat, (b) keeping in his custody its records and registers, (c) arranging for the service of summonses, (d) keeping the accounts of the village fund, and the receipt and custody of panchayat money, (e) making of duly sanctioned payments, and (f) preparation and submission of reports and returns to the collector.⁶

Removal of the Panches and the Sarpanch. The panches and the sarpanch may be suspended or removed from their position by the collector for misconduct, incapacity, neglect of duty or other sufficient cause.⁷ Before removal etc., the persons concerned are given an opportunity to explain their position. For the same reasons, the collector may suspend or dissolve the whole panchayat.⁸ His orders in these matters are final. When a panchayat is abolished or its area is altered, the civil and criminal courts exercising jurisdiction over that area are to be informed. The funds of the panchayat which is abolished, are disposed of by the collector who after meeting its liabilities may spend the rest for the benefit of the locality or transfer it to some other panchayat.⁹

The Sitzings of the Panchayat. The panchayat sits at some place within its circle, fixed with the approval of the collector. Usually it is a room or verandah in the sarpanch's house. Three panches (including the sarpanch) form a quorum. The sarpanch and in his absence a panch elected by the rest for the purpose (provided he can read and write) presides.

The Clerk. With the collector's permission, a panchayat may appoint a clerk whom it may punish and dismiss subject to the latter's right of appeal to the collector. The clerk is the only permanent and salaried employee permitted to the panchayat.

Functions and Powers of the Panchayat. The functions and powers of the panchayat are of four kinds, namely, (1) judicial, (2) administrative, (3) co-operation and help to the officers of government and the local bodies, and (4) making of inquests, preliminary investigations, and enquiries.

⁶ Panchayat Rules Nos. 7 to 12.

⁷ Section 8.

⁸ Section 10.

⁹ Rules 12 and 31.

The Judicial Powers. The panchayat exercises civil as well as criminal jurisdiction over petty suits and cases within its circle.

Its civil jurisdiction extends to the suits of the following kinds, provided that the value of the claim does not exceed Rs. 25, namely, (a) suits for money due on contracts not affecting any interests in immovable property, (b) suits for recovery of movable property or its value and (c) suits for compensation for wrongfully taking or injuring movable property. Suits involving partnership accounts, intestacy or wills, government or public officers as one of the parties in their public capacity, minors or persons of unsound mind, and revenue matters are excluded from the panchayats jurisdiction.¹⁰ The reason for these exclusions is the complexities of law involved in them, or the danger of the panchayats acting under the influence of one of parties as for example when that happens to be a government or public servant.

The criminal jurisdiction of the panchayat extends to cases arising under section 323 (voluntarily causing hurt), 352 (assault or use of criminal force on other than grave provocation), 358 (assault etc. on grave provocation), 379 (theft where the value of property stolen does not exceed Rs. 10), 426 (mischief when the damage caused does not exceed Rs. 10 in value), and 504 (intentional insult to provoke a breach of peace, of the Indian Penal Code.) No case of theft is, however, cognizable by the panchayat unless the accused person is "apprehended, recognized, and named". The panchayats have also jurisdiction under the cattle Trespass Act where the seizure of cattle has been forcibly opposed or the cattle have been rescued. Breaches of certain district board byelaws and disobedience of orders under section 10 of the District Board Primary Education Act 1926 too are cognizable by the panchayats.¹¹

Panchayats cannot take cognizance of cases, (1) in which the complainant or the accused is a public servant serving in the district within which the panchayat circle is situated, (2) of theft by habitual thieves previously convicted, or members of criminal tribes, or persons bound over to be of good behaviour under section, 109 and 110 of the criminal procedure code, (3) of breaches of district board bye-laws except on the complaint of the board or some person authorized by it for the purpose and (4) suits or cases pending before regular courts of competent jurisdiction or already

¹⁰ Section 16.

¹¹ Section 17.

decided by such courts.¹² The reason for these exclusions is in some cases the need for securing impartiality as for instance when a public officer of the district happens to be party, and in other cases the limited power of panchayats to inflict punishment as *e.g.* where habitual thieves or members of criminal tribes are concerned.

The Power of the Panchayat to Award Penalties. In the cases under the Indian Penal Code, the maximum penalty which the panchayats can award is a fine not exceeding Rs. 10 or double the damage or the loss caused, whichever is greater; under the cattle Trespass Act, a fine not exceeding 5 rupees; for breaches of district board bye-laws, fine not exceeding 5 rupees; and under the U. P. District Boards Primary Education Act, a fine not exceeding two rupees. In no case can the panchayats give a sentence of imprisonment whether substantive or in default of payment of fine.¹³

Special Panchayats. Some of the panchayats may be given the status of special panchayats by the Government. This distinction is conferred on panchayats which have done good work and are recommended to the government for the purpose. The Special Panchayats can hear suits involving a value upto Rs. 50, and cases involving amounts upto Rs. 20. In the several kinds of cases, mentioned above, they can also award penalties double of what the ordinary panchayats may inflict, *i.e.* fine upto Rs. 20 in respect of cases under the Indian Penal Code and so forth.¹⁴

Panchayats before which Suits and Cases are to be Instituted. Suits must be instituted before the panchayat in whose circle the defendant (or any of them if there are several) lives at the time, no matter where the cause of action accrued. Cases must be instituted before the panchayat of the circle in which the offence was committed.¹⁵ If cases triable by panchayats come before magistrates, they must transfer them to the panchayat of the appropriate jurisdiction. Similarly no courts can entertain suits which ought to go to existing panchayats.¹⁶

Period of Limitation for Suits. A panchayat cannot entertain a suit after the expiry of three years from the time when the right to sue first accrues. In claims of certain kinds, however, the period of limitation is only one year.¹⁷

¹² Sections 18 and 19.

¹³ Section 21.

¹⁴ Section 24.

¹⁵ Sections 29 and 30.

¹⁶ Sections 31 and 32.

¹⁷ Section 28 and the schedule appended to the Act.

THE VILLAGE PANCHAYATS

No panch who is a party to a suit or is personally interested in it can sit on the panchayat during its hearing.

Judicial Procedure of the Panchayats. Suits and cases are instituted before a panchayat by an oral or written application to the sarpanch. The substance of such an application is entered into a register for the purpose. The plaintiff or the complainant is told when the panchayat meets next and he has then to attend. Summonses are issued to the defendant or the accused, and these are served by the chaukidar or some other person. An instituting fee of annas four to twelve has to be paid according to the value of the suit filed, and of 4 annas for instituting a case. A process fee of one anna has also to be paid for the service of each summons. Witnesses may also be summoned, but no woman can be made to appear as a witness against her will. A person may be represented by his agent. No legal practitioners are allowed. The panchayat gives its decision by majority vote. Suits may be decided *ex-parte*, but not cases. If the accused does not appear voluntarily, he may be compelled to appear by the collector's help. Decision by compromises is permitted. Panchayats cannot vary their decision except where a suit has been dismissed in default or where an *ex-parte* decree against the defendant has been given.¹⁸

The orders and decrees of the panchayat cannot be questioned in any court on the ground of want of jurisdiction, and no appeal lies against them to any court. But as mentioned above, the panchayats may vary their own decisions in certain cases, and the collector is empowered to cancel the jurisdiction of the panchayat with reference to any suit or case, or quash any of its proceeding, or cancel any order or decree of it. In such contingencies, the matter may be taken under the collector's permission, to a regular court for decision.¹⁹ The panchayat may also, of its own accord, refer an important or complicated suit or case to the collector.²⁰

The Execution of the Panchayat's Orders and Decrees. If the decrees of the panchayat remain un-executed, the collector gets them executed on the certificate of the panchayat. All fines or compensation ordered by the panchayat are payable within 10 days of the order.²¹

The Village Fund and the Administration. *Duties of the Panchayat.* As mentioned before, the panchayats have no

¹⁸ Section 33-54.

¹⁹ Section 51.

²⁰ Section 51.

²¹ Sections 55 to 59.

decided by such courts.¹² The reason for these exclusions is in some cases the need for securing impartiality as for instance when a public officer of the district happens to be party, and in other cases the limited power of panchayats to inflict punishment as *e.g.* where habitual thieves or members of criminal tribes are concerned.

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The Village Fund and the Administrative Duties of the Panchayat. As mentioned before, the panchayats have no

¹⁸ Section 33-54.

¹⁹ Section 71.

²⁰ Section 51.

²¹ Sections 55 to 59.

power to impose any tax. Their only sources of income are fees and fines realised in connection with their judicial work, and grants that may be made by the government or the local bodies or private persons. Besides the fees for institution of suits and cases and the service of summonses, a fee of 4 annas is also realized for giving a copy of an entry in the register of suits and cases. The panchayats do not receive any regular or systematic grants-in-aid from the government or any other source, though occasionally they may receive a grant for some specific work. Their finances are, therefore, meagre and fluctuating.

The village fund is under the collector's control, and appropriation of money from it needs his approval. It is kept in the postal savings bank, but the sarpanch is allowed an imprest upto Rs. 10 to meet current expenses.

The village fund may be used to improve education, public health, water-supply, roads and other works of public utility within the panchayat circle.²² In practice, however, few panchayats do any administrative work. They have neither adequate funds nor suitable machinery at their disposal for the purpose.

Resistance to the panchayat in its administrative duties is illegal and punishable with a fine which may extend to Rs. 50. *Help to Government and District Board Officials.* It is the duty of the panchayat to assist and co-operate with the officers of the government and the district boards when called upon to do so.²³

Inquests and Preliminary Investigation of Theft. On receiving information of a suicide or death caused by an animal or machinery, the panchayat is to summon witnesses and hold an inquest and send a report in a prescribed form to the police station. When foul play is suspected, the report must be sent to the police station immediately.²⁴

With certain exceptions, the village chaukidar is to report theft cases to the sarpanch of the panchayat of the village. The exceptions relate to the theft cases cognizable by panchayats and instituted before them; cases not cognizable by the panchayat but in which the accused is arrested by a private person; cases of cattle theft; and cases in which the accused is an old offender, or a member of criminal tribes, or a person bound over for good behaviour under sections 109 or 110 of the criminal Procedure Code.

When a theft case is reported to the sarpanch, he summons the panchayat, enters the substance of the report in a

²² Section 65.

²³ Sections 68 and 69.

²⁴ Rules 34 to 37.

register for the purpose, and the panchayat may hear and examine any witnesses who may voluntarily attend, inspect the scene of the offence, and try to ascertain the facts, by other lawful means. It has, however, no power of search, or arrest, or of calling witnesses compulsorily. If after the investigation, police action seems to be necessary, report must be sent to the police station at once, but otherwise it may be sent on the occasion of the chaukidar's next usual visit.²⁵

The Government may withhold the power of investigation of theft from any panchayat at any time.

The Number of Panchayats in the Province and the Population Affected. The total member of village panchayats in the U. P. in 1940-41 was 4, 733 and the population affected thereby was 9, 7, 95, 853. Considering the fact that the rural population of these provinces, amounts to 44, 806, 927, the panchayats have touched as yet the life of only 1 out of every 5 persons living in the rural areas. Over vast areas and in a large many villages, they are as yet altogether unknown. These panchayats had a total membership of 26, 656 which comes to 5 to 6 members per panchayat. All of them are nominated.

²⁵ Rules 38 to 41.

PART VII

THE FUTURE OF LOCAL SELF- GOVERNMENT IN THE U. P.

CHAPTER XXI

THE FUTURE OF LOCAL SELF-GOVERNMENT IN THE U. P.

The Unsatisfactory Character of the Existing System. It is generally agreed that local self-government as it exists in the U. P. today (or in India generally), is far from satisfactory in its results. The functions assigned to it, judged by the standard of progressive countries are too restricted, the local constitutions are not fully democratic, the local executives are weak and inefficient, the local services are ill-organized and defective, local finances are inadequate for the growing requirements of the local responsibilities, the higher control over local administration is too arbitrary and rigid, and finally as a result of all this the efficiency of local bodies is at a low ebb. The need of reform for this state of affairs has attracted the attention of both the government and the public. The ex-congress government of the province during its term of office, had appointed a committee to make suggestions for the reform of local self-government, and though due to the outbreak of the Second World War, and the resulting constitutional dead-lock, the report of the Committee (1938) could not be acted upon, there is no doubt that with the return of the normal times, the question is bound to be taken up soon, and far-reaching changes are likely to be made in the system we have sketched in the foregoing pages. Let us notice here briefly the main problems that call for reform, and the way in which they are likely to be solved.

Local Areas. From the trend of various schemes of reform put forward, it is clear that there will not be any revolutionary changes in the local areas as they exist now. Municipalities for the bigger towns and cities, town areas for smaller towns of under 10000 of population, a district board for the rural parts of each district, and panchayats for the villages or groups of them, seem destined to be the local areas of the future as they are of the present. The U. P. Local-government Committee recommended the abolition of the notified areas and their absorption either among the municipalities or the town areas, as the size of their population indicated. Another change contemplated was the creation of separate Adalati Panchayats for adjudication of petty village disputes, thus leaving to the ordinary panchayats only administrative duties. Pargana Committee

consisting of delegates from the panchayats of a number of villages would be established to supervise the work of the former and to fill up the wide gap between them and the district boards.¹ These proposals are generally regarded as being sound and conducive to the efficient functioning of local self-government. Objections have, however, been made as regards the desirability of creating Adalati panchayats, because it is a wrong principle to entrust the judicial function even in its lower reaches to any but well-trained and salaried judicial officials of the state. Popular and lay bodies like the panchayats while they are good agencies for conciliation and arbitration of disputes, should not be entrusted with the task of deciding suits and case. They may not have the requisite degree of impartiality and legal acumen for the purpose.

Local Constitutions. It is generally agreed that local bodies should be made fully democratic. The future therefore will see nominations by government entirely abolished, and adult suffrage introduced. The size of local bodies and their term might undergo slight changes in the upward direction. According to the U. P. Local Self-government Committee municipalities should have 21 to 125 members, and district boards 40 to 100 members according to their population, and their term should be raised from 4 to 5 years. These changes are of no vital importance either way. A much more weighty matter is the proposal of the committee for the substitution of joint for separate electorates coupled with the cumulative vote. While there can be no question about the desirability of making this change it must be borne in mind that separate electorates should not be done away without the consent of the minorities affected, and the only way to induce them to agree to the change is to make it worth their while in some other way.

The Local Executive. With the question of refashioning of the local executive, we reach the heart of the problem of local reform, for no single thing can make or mar the success of a governmental scheme more than the character of its executive organ. Under the existing scheme, the executive power of the local bodies is parcelled out among the board, a number of committees, the chairman, and the executive officer. This dispersal of authority makes for uncertainty, friction and delay. In case of things to be done by the plural bodies like the board or its committees, it is always possible to adopt dilatory tactics paralysing action. More than thirty years' experience of the func-

¹ Report of the U. P. Local Self-Government Committee, 1938, Vol. II, pp. 48-49.

tioning of the present type of local executive, has demonstrated this beyond doubt. Next to the board and its committees, the chairman is the most important repository of executive power, but he has often found his position shaky and insecure and has lived in constant dread of no-confidence motions, brought against him by members dissatisfied with him for various reasons, public and private. A series of amendments in the procedure of no-confidence motions, have at last brought some degree of assurance and security to the Chairmen, but the evil is still there and cannot be overcome unless well-knit parties were to spring up in the boards to give consistent support to the Chairman. This however, cannot be secured by legislation.

The U. P. Local self-government committee, therefore, suggested a new scheme of a chairman directly elected by the voters, and independent of the control of the board in respect of his tenure. It also proposed the abolition of the committee system, substituting for them a single executive committee of the board, of 5 to 13 members, to keep a watch over the chairman's administration and to exercise certain executive powers in its own right.² It would have been much better if the committee had put an end to the dispersal of the executive power and concentrated it, in its entirety or nearly so, in the hands of the independently elected chairman. In that case, the board would be left to its deliberative and criticising duties like the legislature, laying down policies, making regulations and bye-laws, passing the budget, and reviewing the chairman's administration. The scheme of an independent chairman is not without its difficulties. It might occasionally lead to deadlocks between him and the board, and sometimes even to high-handed and dictatorial acts on his part. But as the experience of the strong-mayor plan in the cities of U. S. A. shows, it is not unworkable and it makes for efficiency. We have given a long trial to the divided and responsible system of the local executive and it has proved a failure. It is time we made an experiment with the opposite system in the hope of obtaining better results. One man charged with the entire executive power and with the entire responsibility for it, whatever his other faults may be, is not likely to be guilty of procrastination and inaction like the present board and its committees.

Local Services. The present system of local services violates all the canons of civil service organization. There is neither recruitment by merit, nor full assurance of

² U. P. L.S. Government Committee Report, Vol. II, p. 30.

security of tenure, nor political neutrality for the permanent servants of the local bodies. Subject to the fulfilment of the minimum qualifications laid down by the government (and these are not laid down for all the posts), appointments are made on the basis of canvassing, and political influence. There is victimization for political and private reasons. Under such conditions, the local servants cannot afford to be politically neutral.

To improve this state of affairs, the U. P. Local Self-government committee recommended a sort of provincialization of the superior local services. They would be recruited by an independent Local Self-government Public Service commission, and organized into provincial cadres consisting of three classes. Transfer from one place to another, and promotion from an inferior to superior class would be provided for. A Local Self-government Board at the provincial headquarters, would have the power of posting, transfer, control and punishment, subject to the right of the services, in the last case, to appeal to the government. The chairman of the local body under which an officer is posted, would have the power to grant casual leave, maintain service record, censure and warn and stop promotion temporarily, and to order suspension and frame charges for misconduct. The charges would be inquired into by the L. S. G. Board, and if found baseless, the officer concerned would be transferred to another local body. The subordinate and the clerical services would be recruited by the chairman or the executive officer out of an approved list of candidates kept by a committee consisting of the chairman, a nominee of the government, and a nominee of the board's executive committee. Control over these would be finally in the hands of the chairman and the executive officer.³

These reforms if made would eradicate the existing abuses relating to the local services. The only points to be borne in mind are that the Local Self-government Public Services Commission should recruit the services generally on the results of competitive examinations, and the servants should not be made too independent of the control of the local body they serve.

External Control. Regarding governmental control over local bodies, the committee recommended that it should be exercised directly by the Local Self-government Board and not through the agency of the commissioners and the collectors as at present. This board would consist of a whole-time salaried president and 30 other members 7 of

³ Ibid, pp. 45-46.

whom would be elected by the Legislative Assembly, 10 by district and municipal board unions, 3 by Legislative Council, and the remaining 10 nominated by the Government. Among the nominees of the government there would be the heads of the various technical departments connected with local activities, *e. g.*, education, health, public works etc. The board would function through an executive committee consisting of its president, and 4 other non-official members elected by the board. There would be under the Local Self-Government Board, a director, 2 deputy directors and 10 superintendents to do its work. Besides this headquarters staff, there would also be a field agency of 10 divisional head assistants, who presumably would take over the present duties of the commissioners and the collectors, relating to the local bodies. ⁴

As regards the existing forms of control, all of them except supersession would be retained. Instead of being superseded, local bodies when guilty of maladministration, would be dissolved, and re-election would follow within 3 months. Not more than one dissolution within a single term would be permitted. ⁵

The abolition of the agency of the collector and commissioner for the exercise of external control over local bodies has long been demanded by public opinion, because it has been felt that these officers do their local work neither thoroughly nor impartially. They have no special training for this kind of work, and their outlook on local matters suffers frequently from political bias. The proposal of the committee to transfer the supervision and control over local bodies to an agency of the local self-government department itself would, therefore, be very welcome. The utility of the local self-government board as proposed is doubtful. It might prove, like its prototype in England before 1919, just a sham board, or a mere window-dressing. The day to day exercise of local control would be a heavy and continuous duty, and a board as proposed by the committee can hardly find time enough for the purpose. Its duties would largely fall in the hands of the director and his deputies. It would, therefore, simplify things and bring them nearer reality, if the minister in-charge of local self-government be entrusted with the exercise of this control as is the minister of health in England. For thrashing out issues of policy, an advisory committee or board might be associated with him, but it should have no powers of decision. Vesting of important

⁴ Ibid, pp. 42-43.

⁵ Ibid, p. 44.

powers in a board which can owe no responsibility to the legislature and is not under the control of the responsible minister, is a scheme fraught with danger.

Another matter deserving attention is that if provincial control over local bodies is to be instrument of efficiency and progress, there must be organized an adequate body of local inspectors, of the general as well technical sort, who may probe the difficulties and defects of local administration in its day to day working, and suggest remedies for improvement. Without such an inspectorate to furnish it with data for decision, provincial control over local bodies is bound to remain negative, amateurish, and unhelpful as it is now. The 10 divisional assistants proposed by the committee are too inadequate for the task.

Local Functions. The functions assigned to the local bodies at present are fewer and less developed than those of local bodies in the progressive countries of the west. To mention only a few things primary education is nowhere compulsory, piped water supply is the coveted possession of a few bigger cities only, vital health services like maternity and child welfare are practically non-existent, medical facilities are scanty, and public utilities are few and except in case of water-supply, generally privately owned and operated. The main reason for this has been the economic and industrial backwardness of the country, and the consequent poverty of its financial resources. Absence of self-government in the country has exercised a cramping influence on local self-government too.

We have now reached a stage of development, however, when self-government, and economic and industrial development of the country can no longer be safely delayed. The war has brought this lesson home to the people and the government. With intensive economic and industrial development, the need for organizing the numerous social and health services which exist in the progressive states of the west, will become pressing. Experience has shown that the technique of the administration of social services like health, relief of unemployment and destitution, housing and the like must be local, for thus only the detailed knowledge of the various factors involved in concrete situations can be obtained, and hardship and waste in individual cases be prevented. Local self-government which appears to be a more or less superfluous thing under a state with largely police functions only, becomes a vital necessity directly ministrant services on any large scale are undertaken.

The future of our local functions, therefore, must be viewed in this context. The principal lines of advance must

be in the realm of public utilities and social services. The U. P. Local Self-government Committee made some valuable suggestions in these directions. It would add to the existing list of municipal functions, police (for enforcement of municipal rules and bye-laws only), administration of Justice in smaller causes, labour welfare, amelioration of the condition of the depressed classes, maternity and child welfare, provision for the treatment of infections and constitutional diseases, housing and town-planning, tackling the beggar problem, promotion of physical culture, and of trade and industry, provision of birth control clinics, health and unemployment insurance etc. ⁶ To the duties of the district boards would be added police and justice as in case of the municipalities, supervision and control over the lesser authorities like the panchayats and town-areas, the undertaking of the various social and health services as in case of municipalities, and the establishment of public utility and trading services like water and electricity supply, transport of passengers and goods, telephone service, supply of milk and other dairy produce etc. They would also be given powers in respect of agricultural and industrial development of the rural areas, marketing, co-operation, inspection of weights and measures and the like.

The only items in this list of additions to which objection has been made are police, and administration of justice. It is feared that these services cannot successfully be undertaken by the local bodies, and experience of other countries too suggests that they had better be left to the provincial government to which they rightly belong. In case of police, however, it is only fair to bear in mind that the committee did not contemplate the transfer of the regular police force to the local control, but the creation of an additional force to serve strictly municipal needs. There is also a complaint that local bodies do not get sufficient co-operation from the provincial police force, and therefore, it is contended that they should have their own arrangements for the purpose.

The duplication involved in the maintenance of separate local forces will, however, be expensive and might cause complications. It should, therefore, be a matter for careful consideration whether the object in view cannot be achieved in some other way, *e. g.*, by issuing suitable instructions to the regular police force to be more helpful to the local bodies, and by increasing its strength, if necessary. Administration of justice by elective bodies is frankly objectionable.

⁶ Ibid, p. 37.

The committee suggested numerous additions to the functions of village panchayats also so that they would exercise in the villages most of the powers that municipalities do in the towns. Thus in the committee's scheme, the panchayats would not only construct and maintain village paths and works, and look after its sanitation and cleanliness, but would also establish and manage primary schools, dispensaries, maternity and child welfare centres etc. It is doubtful whether the village panchayats can be suitable areas, financially and administratively, for costly services like these. These are best provided and managed by areas of a larger circumspection. The village panchayats can, however, be used as agencies of the district board and government not only for looking after these services but also for popularizing measures of agricultural, industrial, and many other improvements.

While the U. P. Local Self-government Committee suggested additions to the functions of the local bodies, all round, an opposite trend of thought was noticeable in certain other directions. Thus the U. P. Primary and Secondary Education Reorganization Committee (1939) strongly recommended the transfer of education from the local bodies to the government, and the proposal has received support from the various expert committees appointed by government of India. It will, therefore, not be surprising if the future may see the local bodies deprived of their educational functions. A certain section of opinion is in favour of a similar transfer of public works also to the government, and this may happen at least in regard to the more important roads. Transfer of education and roads from the list of district board's duties will create a big hole in them, and unless substantial compensation is made to these bodies in other directions, they will hardly have any important activities left.

Local Finance. Financial stringency is the universal excuse of the local bodies when they are charged with poor roads, bad sanitation, inefficient schools and the like. It is also the excuse of the government for holding up numerous important schemes of local improvement and reform. The excuse is not without its force so far as the local bodies are concerned. They have always lived from hand to mouth, and have never had resources of their own to finance any extensive schemes of developing their services.

This has been freely recognized by the numerous committees and commissions that have studied the question from

⁷ Report of the U. P. Primary and Secondary Education Reorganization Committee, p. 103, para 6.

time to time, and they have also made proposals to add to the financial resources of local bodies. Thus the Indian Taxation Enquiry Committee (1924) found the chief cause of the financial helplessness of Indian local bodies in the fact that taxation of land which is the mainstay of local revenues elsewhere, is, in India, exploited by the state for its own needs. Their principal recommendation, therefore, was that the demand of the state on land should be standardized at a low figure, say 20 to 25 per cent of the rental, so that the local bodies may have greater scope of taxing it for their needs. For the towns, their recommendation was a large share of the ground rent to the municipalities, and higher taxation of non-agricultural land than obtains at present. Besides these things, the committee also recommended taxing of advertisements, entertainments, and marriages; making of special assessments to finance schemes of improvements; and more liberal grants-in-aid from the government. Existing taxes like octroi, or taxes on trades and professions, and circumstance and property should be improved to make their yield greater.⁸

The U. P. Local Self-Government Committee recommended that (1) the local rate or the land cess should be enhanced or at least should be levied at the maximum rate legally permitted; (2) the tax on houses and lands should be levied in the rural areas also (excluding agricultural land) for the benefit of the village panchayats and town areas which should have the power to try other taxes also permitted within the municipalities, *e. g.*, those on trades and callings, professions, sale of goods, vehicles and conveyances etc.; (3) a tax on money lenders be imposed both in urban and rural areas; (4) taxes on luxuries, entertainments, bettings, advertisements etc. be levied in municipalities; (5) a share of certain provincial taxes should be contributed by the government to the local bodies, *e. g.*, of the motor tax, petrol duty, court fees, and stamps revenue and that (6) a graduated fee on the mutation of names in the proprietary khewat should be imposed for the district boards.

The panchayats would obtain their income from the following sources :

- (1) A tax of 5 per cent on the tenant's rentals;
- (2) A tax on land-owners of 5 to 7½ per cent of their rentals;
- (3) A contribution by the government at 5 per cent of its revenue demand in the villages concerned;

⁸ Report of the Indian Taxation Enquiry Committee, 1924, paras 194 and the following.

(4) A contribution by the district boards at 25 per cent of the land cess ;

(5) Taxes on houses and lands, vehicles etc. mentioned above ;

(6) Fees and fines realized in connection with the judicial work of the panchayats ; and

(7) A labour tax in kind in lieu of the tenant rate where necessary.

These recommendations of the Taxation Enquiry Committee and the U. P. Local Self-Government Committee if carried out, would make certain welcome additions to the meagre funds at the disposal of the local bodies. By themselves, they cannot, however, solve the financial problem of the local bodies for any considerable length of time. A large number of taxes, while they may be valuable for effecting an equitable adjustment of resources among the various grades of governmental authorities, and of tax-burdens as between the different social classes, are not necessarily productive of more revenue than a few taxes only. In a rich country like England or U. S. A., a single tax, *e. g.*, the rate on houses and lands produces for the local bodies many times of what a multitude of imposts can yield in a poor country like ours. It is all a question of the taxable wealth that a people have. The ultimate solution of the problem of local finances, is, therefore, bound up with the future increase of wealth in the country consequent upon its economic development. In other words, it is a problem which cannot be solved on the purely local plane ; the key for its solution lies in the hands of the Government of India and the provincial governments which alone are competent to set the pace for the country's material development.

But a great deal can be done on the local plane also. If the government and the legislature empower and encourage the local bodies to take up an adequate number of public utility enterprises connected with the supply of water, electric power, transport, and other things commonly recognized as legitimate objects of municipal trading, these, besides increasing the usefulness of local bodies, will also make valuable additions to their income. Municipalities and district boards might also be allowed to acquire, own, and develop agricultural, forest, or building estates both to their own benefit and of the society. Municipal socialism is fast becoming an established fact, and our local bodies will gain greatly by taking a step or two in that direction.

Unions and Associations of Local Bodies and their Officials.
Like other organized interests in modern society, local

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bodies also have their unions and Associations to serve as their mouth-piece in the matter of voicing of grievances, advocacy of necessary reforms, and the mutual exchange of opinions and experiences. A beginning has already been made in this direction in U. P. Unions of district boards and municipalities have been launched, and local bodies have also been allowed to contribute to their funds. An All-India Union of Local Authorities was also started some years ago. Professional associations of various classes of local employees, *e. g.*, engineers, are slowly cropping up. These associations and organizations are at present in their infancy and weak, but the future may see a vast increase in their strength and usefulness.

Local Self-Government and Government of India. It is a pity that provincial autonomy and responsible government have meant a total severance of connection between Government of India and local self-government. Even in U. S. A. where the sentiment of state autonomy is so strong, and where local bodies at one time were supposed to be the exclusive concern of states, federal interest in and assistance to local bodies has made its appearance in recent years. Without controlling the local bodies directly, the Government of India can yet collect and disseminate information relating to local bodies on an all-India basis, review from time to time the course of local self-government policy and suggest the directions which it might profitably take, and render financial assistance to local services of national importance. This they already do in respect of certain provincial subjects like education, and there is no reason why it should not be the same with local self-government. The future may well see the resumption of the thread of connection between the two at the point where it was broken in 1919.

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ERRATA

It is regretted that some printing errors have crept into the book. The readers are requested to correct them as follows :—

Page	Line	For	Read
19	31	sarees	sarais
27	41	post	part
32	3	read the third line as	the first of the page.
35	7	effects	affects
36	41	insert 'one' between the comma and 'of'.	
45	1	received	receive
46	1	of	or
52	8	restrain	restraint
64	17	5,000	50,000
72	2	or	parts
73	41	latter	former
79	3	yields	yielded
78 81	12	passenger	passengers
88	19	terms	term
89	40	hand	bond
94	4	and	an
94	11	lighting	fighting
94	24	number	member
94	27	houses	hoses
95	11	confirmed	confined
95	33	puriah	pariah
98	39	went	wet
107	5	than	that
115	20	India	Indian
125	1	committee	committees
125	40	„	„
127	30	district	districts
131	22	insert 'to' after 'go'.	

132	21	dept	deputy
133	31	repeated	repealed
134	29	chance	change
135	29	consists	consist
157	34	district	districts
157	35	"	"
165	26	close the bracket after 'peace'.	
166	40	accrue	accrued
179	35	is	in

